S. HRG. 98-1007

FEDERAL LAND MANAGEMENT PROBLEMS IN NORTHERN NEVADA

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

FEDERAL LAND MANAGEMENT PROBLEMS IN NORTHERN NEVADA

JUNE 13, 1984

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Committee on Energy and Natural Resources

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FEDERAL LAND MANAGEMENT PROBLEMS IN NORTHERN NEVADA

WEDNESDAY, JUNE 13, 1984

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 8:03 a.m., in room SD-366, Dirksen Office Building, Hon. Chic Hecht, presiding.

Present: Senator Hecht.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. CHIC HECHT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator HECHT. Good morning, everyone. The Public Lands and Reserved Water Subcommittee will receive testimony from Members of Congress, the administration, State officials, and the general public on Federal land management problems on checkerboard lands in northern Nevada.

I want to start out by thanking everyone for their forebearance in the rescheduling of this hearing. I had to return to Las Vegas on very short notice. I want to extend my thanks to the subcommittee chairman, Malcolm Wallop, for accommodating me in this matter.

This is not a legislative hearing in the sense that a specific bill is under consideration. Rather it is a general inquiry into how to improve management efficiencies within the 40-mile wide checkerboard land area in northern Nevada.

I encourage all witnesses to speak freely on any issue they feel may be relevant to this inquiry. The record of this hearing will be printed and distributed at a later date. The official record will remain open for 2 weeks after today's date for any additional matters which the parties may wish to submit.

I would ask today's witnesses to summarize their written statements to no more than 5 and 7 minutes of oral testimony. Your complete written statement will be made a part of the record.

Without further ado, Congresswoman Vucanovich hasn't come in yet. We will accommodate Congresswoman Vucanovich when she comes.

First of all, I want to say that Senator Paul Laxalt has submitted a statement for the record and it will be put into the record.

[The prepared statement of Senator Laxalt follows:]

Statement of Senator
Paul Laxalt
Subcommittee on Public Lands and Reserved Water
June 12, 1984

Mr. Chairman:

I appreciate this opportunity to submit for the record my views in support of the efforts of this Subcommittee to study the management difficulties of the checkerboard land ownership patterns existing in the western states. Hopefully, these hearings and possible subsequent Congressional action will provide solutions which will not only resolve the management problems, but provide important public benefits.

The Nevada legislature has taken the lead in developing innovative and positive ways of consolidating land ownership which will benefit both the Federal Government and the states. I commend the Nevada Committee on Public Lands for its continuing efforts to focus Congressional attention on this unique western problem. I also commend this Subcommittee and my colleague, Senator Hecht, for scheduling the Subcommittee's time to consider the matter.

The State of Nevada's land area is 70.7 million acres, of which 87 percent is public domain. Only 7 million acres, or 10 percent of that land base, is on the tax rolls. Some 8 million acres are interspersed in a checkerboard pattern that makes effective management impossible and

reduces the productivity of both classes. It is time that the state and federal governments work in a cooperative effort to bring some order to the presently confused and unproductive system. The Nevada Public Lands Committee brings the Subcommittee some recommendations which I believe have considerable merit. I urge the Subcommittee's close study of these recommendations. I also pledge to work with the Subcommittee in a constructive effort to deal with the problems.

Thank you, Mr. Chairman.

Senator HECHT. Our first witness will be Mr. Frank Edwards, Assistant Director, Land Resources, Bureau of Land Management, Department of the Interior, Washington, DC.

Mr. Edwards.

STATEMENT OF FRANK EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. EDWARDS. Thank you, Mr. Chairman. I appreciate the opportunity to appear before the subcommittee this morning to discuss the Department of the Interior's position on the management of the checkerboard land pattern in Nevada and other Western States.

My statement will be very short, and I have brought with me some maps illustrating checkerboard situations in other States that might also be of interest to members of the committee.

The checkerboard land pattern is a result of the Congress' attempt to encourage the settlement of the West through the construction of railroads in the 19th century. Congress began granting rights-of-way to railroads in 1835. Beginning in 1852, Congress authorized grants to the railroad companies of alternating sections of public lands within 6 to 10 miles of both sides of the rights-of-way.

The purpose of the grants which included the mineral rights to the land was to finance construction of the railroads through the sale by the railroads of lands granted to them, and thereby to promote settlement along the railroad lines.

Congress also felt that these internal improvements would increase the demand for the public lands and enhance their selling price. The result of the settlement plan was the checkerboard-like land pattern that exists today.

Throughout the West more than 90 million acres of land were granted to the railroads, creating a checkerboard of approximately

180 million acres. Over time as a result of sales, exchanges, and operation of the railroad acts' reversionary provisions, a substantial portion of the checkerboard lands has become wholly owned by Federal, State, and private interests. Today, of the original 90 million acres of Federal lands in the checkerboard, only approximately 8.8 million acres remain, of which roughly 7 million acres are managed by the Bureau of Land Management, and 1.8 million acres are managed by the Forest Service. Approximately 2.9 million acres of these lands are located in Nevada, and that would be approximately one-third.

Other States with more than 500,000 acres of checkerboard land pattern are Wyoming, Montana, California, Arizona, and Oregon.

The existence of the checkerboard land pattern in the Western States does present some problems. For instance, because the original checkerboard was granted in a manner that provides contiguous ownership only at section corners, a private landowner can prevent access to public lands in a checkerboard area. While this is not a common occurrence, it has led to some difficult situations in the past.

I can defer until later if you like.

Senator HECHT. I see you only have one more page. Let him finish.

Mrs. VUCANOVICH. Fine.

Mr. EDWARDS. In carrying out its management responsibilities in the checkerboard areas, BLM uses the same policies and practices as it uses in all other areas. In most land management situations, there is virtually no difference in how BLM approaches the checkerboard management from more open land. If problems do occur, we have worked them out.

For instance, grazing allotments on the BLM lands that are comingled with railroad lands are managed through exchange-of-use grazing agreements or variations of this program as negotiated with the owner and lessor of the non-Federal lands within the allotment. Through these agreements the owner/lessor surrenders grazing management responsibility for the private land and gains the ability to let livestock graze the larger area which includes both public and private lands. The permittee pays BLM grazing fees for that portion of the total area which is public land managed by the Bureau.

The Bureau of Land Management has consolidated the ownership or management of various checkerboard holdings through equal value exchanges in areas where there is a dominant cooperative private owner, through the sale of Federal surface interests, through equal-value mineral exchanges where mineral values are known, and through cooperative management agreements. As you see, several approaches to the matter have been developed.

In summary, the railroad grant checkerboard in Nevada and elsewhere does present some problems which do not fit squarely into general management programs of the Bureau. However, in each of these management areas policies and practices have been developed to resolve problems with minimum conflict and maximum effectiveness.

This concludes my statement. I will be pleased to answer any questions you might have.

Senator HECHT. Thank you very much, Mr. Edwards. I am sure there will be some questions submitted for you for the record.

Now it gives me great pleasure to present Congresswoman Vucanovich, Barbara Vucanovich, U.S. House of Representatives, State of Nevada, 2d District.

STATEMENT OF HON. BARBARA VUCANOVICH, A U.S. REPRESENTATIVE FROM THE STATE OF NEVADA

Mrs. VUCANOVICH. Thank you, Chairman Hecht. Good morning, gentlemen. I want to thank you for providing this opportunity to initiate discussion of the checkerboard land situation in northern Nevada.

As you are aware, the checkerboard land pattern was created in the 1860's when the Central Pacific Railroad was granted alternate 1-mile square sections of land for a distance of 20 miles on either side of the tracks. The reasons for this land grant were to encourage extension of the railroads westward and to provide an incentive for settlement of those lands.

This program was successful in both respects in most other parts of the Nation. In Nevada, however, settlement of those lands did not occur. The reasons for the failure of this aspect of the checkerboard program in Nevada are not a subject of discussion here today.

Rather it should be our intention to address the problems created by the continuing existence of this nearly unmanageable land ownership situation and possible solutions to these problems.

Since the checkerboard land program was initially developed for the settlement and the benefit of the States involved, any actions taken by the Congress in dealing with the current situation should also have as a primary goal benefits to the State. In addition, the diverse and competing interests involved in any large-scale land transfer must also be considered.

In the case of Nevada's checkerboard lands, consideration must be given to owners and users of adjacent lands, individuals with a continuing economic interest in those lands such as ranching or mining, the existence of areas of environmental concern, archeological interest, historic value, and fish and wildlife habitats.

Resolution of these questions must come about through development, in this case by the State of Nevada, of a comprehensive plan for distribution of the federally owned checkerboard lands. I am happy to report that Nevada has developed such a program that is both cost effective and can be shown to provide a continuing benefit to the residents of the State.

The decision that needs to be agreed to by the Congress is simply to sell the federally owned lands in question to the State of Nevada. I believe it is appropriate, though, that action be considered due to the already enormous Federal presence in Nevada. Fully 87 percent of Nevada's land area is currently owned by the Federal Government. Sale of this relatively small amount of land to the State would benefit Nevadans immensely by resolving difficult management problems created by checkerboard ownership, and providing needed flexibility with regard to land use and sale.

I should stress that Nevada officials are anxious to cooperate with the Federal Government in protecting any Federal interests relating to mineral rights and the establishment of wilderness areas.

Mr. Chairman, I want to thank you again for your time and concern with regard to this problem. It is my hope that congressional action to satisfy the needs of both the Federal Government and the State of Nevada will be forthcoming.

Thank you very much.

Senator HECHT. Thank you very much, Congresswoman Vucanovich. Using the prerogative of the Chair, I don't know how your time permits this morning, but you are quite welcome to join me up here in any questioning.

Ms. VUCANOVICH. Thank you. I can't believe it, but I have to testify on the other side in a half an hour. I didn't know all of us Federal employees worked this hard and started this early.

Senator HECHT. I hope we do have news coverage and they pick that up.

Ms. VUCANOVICH. I hope so. Thank you very much, Mr. Chairman.

Senator HECHT. Thank you very much. Mr. Edwards, before you sit down, just a few brief questions.

I know that the Department of Interior has been active in developing the Project Bold proposal in Utah. While Utah is somewhat of a different situation, are there any lessons learned from that experience that might have a bearing on Nevada's checkerboard problem?

Mr. EDWARDS. Well, first of all, Mr. Chairman, the Project Bold idea originated with the Governor of the State of Utah, and so it has been primarily a Utah initiative with some consultation with our Bureau. It is basically an exchange program or trading of base lands which would not be the same proposal as proposed for the checkerboard land in the Nevada situation.

I guess the lesson learned from that is that it is very difficult to craft legislative language to cure some of the ills of past experience, and it would be very difficult to propose a similar type proposal of exchange like that proposed in Project Bold on such a broad scale for the checkerboard lands.

Senator HECHT. Do you have any figures on the net Federal revenues generated on the 3.5 million acres in question through grazing fees and mineral receipts?

Mr. EDWARDS. I don't have those figures with me. We could possibly get those together and provide them for the record at a later time.

[The information follows:]

The approximate Federal revenue generated through grazing fees on the 3.5 million acres is $267,000. This is based on an average of 18 ac/aum throughout the area.

The best estimate on the Federal income derived from the checkerboard area of Nevada is:

	Rentals
Oil/gas	$300,000
Geothermal	50,000
Total	[1]350,000

[1] Half goes to the state this FY.

The potential for FY 85 is about $500,000 due to potential production from Federal leases (oil and gas and geothermal royalties).

Senator HECHT. Thank you. What has the Department's appraised fair market value been on comparable lands sold in Nevada recently?

Mr. EDWARDS. Well, I don't recall that we have sold any lands in the checkerboard area along the railroad very recently. If we have, the figures haven't come to mind.

Most of our sales have been in southern Nevada in Clark County, and those lands are much more expensive.

Senator HECHT. Would you provide that for the record?

Mr. EDWARDS. Be glad to do that, yes.

Senator HECHT. Thank you. Would you care to comment on the Nevada legislature's proposal's effect on the mining industry, particularly the problem of access to Federally reserved mineral rights and how might this problem be addressed in the proposed legislation?

Mr. EDWARDS. One way that it might be addressed is if the mineral rights were reserved to the United States, that if there were any mining interests or claims that were located, they would continue under Federal law, but that doesn't really cure the problem because you still have conflict with surface use.

I haven't had a chance to really talk to the mining industry to find out what they feel their problems would be with this proposal. I would imagine that they do have some problems with it because of access.

Senator HECHT. Thank you. I would like for you to address that, too, in your answers.

Mr. EDWARDS. I would be glad to do that, yes.

The average land value throughout the checkerboard area is $75–$125. This assumes the highest and best use is grazing. This value was derived from recent land exchanges and sales.

Senator HECHT. Thank you. Would you care to comment on the Nevada legislature's proposal's effect on the mining industry, particularly the problem of access to federally reserved mineral rights and how might this problem be addressed in the proposed legislation?

Mr. EDWARDS. One way that it might be addressed is reserving the mineral rights to the United States, so that if there were any mining interests or claims that were located, they would continue under Federal law, but that doesn't really cure the problem because you still have conflict with surface use.

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Senator HECHT. Thank, you. I would like for you to address that, too, in your answers.

Mr. EDWARDS. I would be glad to do that.

[The information follows:]

At the time the railroad grant was made, the mineral rights went to the railroad. It is not anticipated that legislation would relinquish those rights today; thus, a split estate would be created. The two concerns which have been expressed about a split estate relate to access to the entire area for the purposes of prospecting (as compared to a right-of-way access corridor for passage across land), and mill-sites to serve mines which may be opened in the future. The proposed legislation could require the state to provide for these needs in any area where a sale is made by the state.

Senator HECHT. In the Department's opinion, is the State of Nevada capable of administering such a large land disposal?

Mr. EDWARDS. Well, I would certainly hate to say that they are not capable of managing it. I believe they are probably capable of managing it, yes.

Senator HECHT. Thank you very much. Let's continue on with our next panel—the Honorable Norman Glaser, the Honorable Danny Thompson, the Honorable James Bilbray, the Honorable Alan Glover, the Honorable John Marvel, the Honorable David Nicholas, the Honorable Karen Hayes.

As I mentioned before in my opening remarks, I know the time restraints on some of you. I know Senator Glaser has to catch an early plane, so anything that you do not have time for, keep your remarks to a minimum and submit the full testimony for the record.

Number one, the Honorable Norman Glaser, State senator, chairman, Committee on Public Lands, Halleck, NV.

STATEMENT OF HON. NORMAN D. GLASER, STATE SENATOR, CHAIRMAN, COMMITTEE ON PUBLIC LANDS, HALLECK, NV; ACCOMPANIED BY: HON. JAMES H. BILBRAY, STATE SENATOR, LAS VEGAS, NV; HON. ALAN H. GLOVER, STATE SENATOR, CARSON CITY, NV; HON. DAVID D. NICHOLAS, ASSEMBLYMAN, INCLINE VILLAGE, NV; HON. KAREN W. HAYES, CLARK COUNTY COMMISSIONER, LAS VEGAS, NV; AND BOB ERICKSON, STAFF ASSISTANT, CARSON CITY, NV

Mr. GLASER. Well, thank you, Senator Hecht, and members of the panel. On behalf of the Nevada Legislative Committee on Public Lands, I would like to thank you for the opportunity to appear before you and submit into the record some of our thoughts in regard to the checkerboard issue.

Before starting my presentation, I would like to introduce the members of the panel which you previously recognized—Commissioner Hayes who has been a former assemblyman from Las Vegas; Assemblyman Nicholas represents the Lake Tahoe area; Senator Bilbray who is from Las Vegas; and Senator Glover who represents Carson City.

Two members of our committee are unable to be here because either they weren't feeling well or because of some other problem—Assemblyman Marvel and Assemblyman Thompson.

Also with us today are two of our staff assistants, Bob Erickson and Lyndyl Payne, both from Carson City.

As Mr. Edwards, the Bureau of Land Management, indicated so well the history of checkerboard lands, I won't duplicate those statements.

I would just like to point out the map which illustrates rather graphically and dramatically the checkerboard problem that runs from the soft flats of Wendover on the eastern border of Nevada to

the foothills of the Sierras over by Verdi out of Reno on the west, and that is the area that we are talking about, and that is the area for resolution that the Nevada Legislature dealt with.

In our opinion, the Congress did not intend for the Federal Government to retain in perpetuity the ownership of the checkerboard lands, or as a matter of fact, the public lands in any of the Western States initially.

Unfortunately, some of the land laws that were invoked in those early days weren't designed to put into the private sector these vast areas of arid western land, and so much of this remains locked up in the checkerboard area and has been unmerchantable. It is estimated that 3.5 million acres of the original 5 million acres in the checkerboard area do still remain in Federal control.

The railroads as a matter of fact did a better job of merchandizing their checkerboard lands than did the Federal Government. That is my understanding. It is only roughly around 1 million acres that the railroads still maintain control of in the checkerboard area. They have sold off the rest.

Approximately 1.5 million acres of this former checkerboard land was conveyed into private ownership by the Federal Government. In other places, private and Federal lands have been exchanged and consolidated into more manageable units, as Mr. Edwards indicated.

We support land exchanges of this type. Some of these land exchanges have been on the book for approximately 20 years, so it has been a slow process to get land exchanged in the checkerboard area up to now.

We see that there may be another way to more efficiently correct the problems related to this land ownership situation, but before describing this proposal that was passed in the 1983 session of the Nevada Legislature and signed by Governor Bryan, I would like to turn your attention and my remarks to another problem related to the railroads, and that has been the grade crossings of the railroads over the highways and roads which are both hazardous and disruptive of the agriculture and urban interests in Nevada.

In that checkerboard swath from the Utah border to the California border are hundreds of these grade crossings, and in my home town of Elko alone there has been from one to two fatalities every year on the 18 grade crossings that exist in Elko. There is a Federal program and has been a Federal program to eliminate grade crossings. Elko is one of the pilot programs, and that hazard has now been eliminated in Elko, but a friend of mine last year, a Lander County Commissioner, Warren Storie, he and a business associate were both killed at the grade crossing in Battle Mountain.

We will provide for the record a copy of the Nevada Department of Transportation's record of hazardous rail crossings in our state which indicates frequency of travel, number of school buses that go over these crossings and so forth.

In addition to the hazards involved, cities like Reno and Elko were cut in half by the major east-west rail corridors. In the early days there might have been only a few trains that lumbered through town. Now there are dozens of trains that go each way, long trains, and initially perhaps they were 40, 50 car lengths. Now they are 140 car lengths. As I indicated, the project in Elko has

been completed. When I left Elko a few days ago, they were in the process of removing the rails through the downtown section of town. The trains have been going around the city, and I mean to tell you, it is a huge success.

I have given you this in the way of background. I now would like to describe a piece of legislation which will we feel rectify the situation. That is Senate Joint Resolution 14 in which we memorialize the Congress to sell the public lands within the checkerboard area, excluding the mineral interests to the State of Nevada, for $2.50 an acre. The subsequent sale of the land except for those lands identified for parks, wildlife, recreation, and other public purpose, would produce revenue which could among other things be used to eliminate hazardous grade crossings of railroads over highways in Nevada.

Although Senate Joint Resolution 14 proposed that the money be used for the elimination of grade crossings, in our hearings around the State relative to this piece of legislation, we bring to your attention that other segments of this society indicated they felt there were other worthwhile public uses such as education, flood control, recreation, conservation, and similar purposes. The committee would not object if in the wisdom of the Congress they decided to include other public purposes.

Second, as was indicated in previous testimony, the mining industry has expressed some apprehension on this particular piece of legislation. Initially they supported the Sagebrush Rebellion. Initially they supported in the hearings in the Senate Senate Joint Resolution 14 checkerboard lands, and Senate Joint Resolution 15, the land equity bill. Since that time, our friends in the mining industry have become a little apprehensive about what might happen to the industry if the State got control of it.

We tried to alleviate their fears by saying that we would invoke the same type of treatment they received under the laws of the 1872 mining law, but before closing, let me highlight this other piece of legislation, Senate Joint Resolution 15, which we call the land equity bill.

When Nevada came in, when Nevada was given statehood 120 years ago, they had but 23,000 people in the entire State. As late as 1900 they only had 43,000, so Nevada really was admitted to the Union prematurely. At that time it was of little significance to the inhabitants because they were so anxious to achieve the respectability of statehood, it was of little significance to them that they have a lot of public lands dedicated to the State, so as a result of this, they in my opinion, they made rather a bad deal with the Congress and they made even a worse deal when they traded some of these unsurveyed sections like the 6th and 32d section out of every township for half that many in areas that were already surveyed.

As a result, Nevada has come out with a very slender amount of land to put onto the tax roll and as a result, we only have 10 percent of the land as a tax base, and 87 percent remains public domain. We are providing documents to the subcommittee concerning Nevada's original request for additional land grant. This was a study that was completed in 1970 and submitted to the Federal Land Law Review Commission for their consideration.

In order to partially fulfill Nevada's responsibilities under such a land grant, we have already initiated a comprehensive land use planning program involving Federal lands in the State. This was accomplished by the passage and funding of the Senate bill 40, also in the 1983 session.

In closing, Mr. Chairman, I again appreciate the opportunity to bring these concerns to you, and it is our hope that you will assist us with the legislation needed.

I certainly thank you for your time, and I would be pleased to answer any questions that you might have.

Senator HECHT. Thank you, Senator Glaser. Let the record show that Senate Joint Resolution 14, Committee on Natural Resources, and Senate Joint Resolution 15, Committee on Natural Resources, and State of Nevada request for 6 million acre land grants will all be a part of the record.

[The prepared statement of Mr. Glaser and resolutions follow:]

NEVADA LEGISLATURE'S
'COMMITTEE ON PUBLIC LANDS
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

SENATOR NORMAN D. GLASER, Chairman
ASSEMBLYMAN DANNY L. THOMPSON, Vice Chairman
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CLARK COUNTY COMMISSIONER KAREN W. HAYES

STAFF DIRECTOR: ROBERT E. ERICKSON (702) 885-5637

JUNE 12, 1984

SENATORS:

ON BEHALF OF THE NEVADA LEGISLATURE'S COMMITTEE ON PUBLIC LANDS, I WOULD LIKE TO THANK YOU FOR PROVIDING US THIS OPPORTUNITY TO DISCUSS ISSUES INVOLVING THE "CHECKERBOARD" LANDS OF NORTHERN NEVADA.

BEFORE STARTING MY PRESENTATION, I WOULD LIKE TO INTRODUCE THE MEMBERS OF OUR COMMITTEE. CLARK COUNTY COMMISSIONER AND FORMER NEVADA LEGISLATOR, KAREN HAYES, WHO IS FROM LAS VEGAS. COMMITTEE VICE CHAIRMAN, AND ASSEMBLYMAN DANNY THOMPSON WHO IS FROM THE HENDERSON AREA OF SOUTHERN NEVADA. SENATOR JIM BILBRAY WHO IS FROM LAS VEGAS. SENATOR ALAN GLOVER WHO IS FROM CARSON CITY. ASSEMBLYMAN DAVE NICHOLAS WHO IS FROM INCLINE VILLAGE AT LAKE TAHOE. I AM SENATOR NORMAN GLASER FROM HALLECK, LOCATED IN NORTHEASTERN NEVADA. IT IS MY PLEASURE TO SERVE AS CHAIRMAN OF OUR COMMITTEE ON PUBLIC LANDS.

ALSO WITH US TODAY ARE OUR TWO STAFF ASSISTANTS, BOB ERICKSON AND LYNDL PAYNE, BOTH FROM CARSON CITY.

UNABLE TO BE WITH US IS OUR SEVENTH COMMITTEE MEMBER, ASSEMBLYMAN JOHN MARVEL FROM BATTLE MOUNTAIN. JOHN IS BACK HOME HELPING OUT AROUND THE HOUSE AS HIS WIFE IS RECOVERING FROM RECENT SURGERY.

LET ME START AT THE BEGINNING.

AS AN INCENTIVE FOR THE CENTRAL PACIFIC RAILROAD TO BUILD A RAIL LINE TO THE WEST COAST OF AMERICA, THE CONGRESS IN THE 1860'S AGREED TO GRANT EVERY OTHER SECTION OF LAND WITHIN 20 MILES OF THE RAIL LINE TO THE RAILROAD COMPANY. THIS WAS ACCOMPLISHED WITH COMPLETION OF THE TRANSCONTINENTAL RAILROAD IN 1869.

IT IS OUR OPINION THAT THE CONGRESS WOULD NOT HAVE RETAINED THE ALTERNATING SECTIONS OF LAND IN THIS "CHECKERBOARD" OWNERSHIP PATTERN IF IT HAD NOT INTENDED TO EVENTUALLY DISPOSE OF THIS

LAND. UNFORTUNATELY, MUCH OF THE LAND IN NEVADA LACKED WATER TO ALLOW HOMESTEADING OR OTHER SETTLEMENT, SO AN ESTIMATED 3.5 MILLION ACRES OF THE ORIGINAL 5 MILLION ACRES OF FEDERAL LAND IN THE "CHECKERBOARD" AREA OF NEVADA REMAINS IN FEDERAL CONTROL.

IT IS FAIR TO SAY THAT THE LAND OWNERSHIP IN THE "CHECKERBOARD" AREA IS INEFFICIENT AND DIFFICULT FOR BOTH FEDERAL AND PRIVATE ENTITIES TO MANAGE. PUBLIC ACCESS AND RIGHTS-OF-WAY ALSO REMAIN AS PROBLEMS.

APPROXIMATELY 1.5 MILLION ACRES OF FORMER FEDERAL LAND IN THE "CHECKERBOARD" AREA WAS CONVEYED INTO PRIVATE OWNERSHIP AFTER THE RAILROAD TRANSFER. IN OTHER PLACES, PRIVATE AND FEDERAL LANDS HAVE BEEN EXCHANGED AND CONSOLIDATED INTO MORE MANAGEABLE UNITS OF LAND. WE SUPPORT LAND EXCHANGES OF THIS TYPE. HOWEVER, THE TIME HAS COME TO REEVALUATE THE ENTIRE "CHECKERBOARD" AREA TO SEE IF THERE MAY NOT BE ANOTHER WAY TO MORE EFFICIENTLY CORRECT PROBLEMS RELATING TO THIS LAND OWNERSHIP SITUATION.

BEFORE DESCRIBING THE PROPOSAL APPROVED BY THE 1983 SESSION OF THE NEVADA LEGISLATURE AND GOVERNOR RICHARD BRYAN, LET ME TURN TO ANOTHER PROBLEM RELATED TO THE RAILROADS. THERE ARE MANY GRADE CROSSINGS OF RAILROADS OVER HIGHWAYS AND ROADS WHICH ARE BOTH HAZARDOUS AND DISRUPTIVE TO THE DEVELOPMENT OF COMMERCIAL, AGRICULTURAL AND URBAN INTERESTS IN NEVADA. AN EXAMPLE OF THE HAZARDS INVOLVED REALLY HIT HOME NOT LONG AGO WHEN WARREN STORIE, A COUNTY COMMISSIONER FROM LANDER COUNTY, AND A BUSINESS ACQUAINTANCE FROM RENO, WERE BOTH KILLED IN BATTLE MOUNTAIN AT ONE SUCH UNGUARDED RAIL CROSSING. I AM ALSO PROVIDING COPIES OF INFORMATION FROM NEVADA'S DEPARTMENT OF TRANSPORTATION CONCERNING HAZARDOUS RAIL CROSSINGS IN OUR STATE.

IN ADDITION TO THE HAZARDS INVOLVED, CITIES LIKE RENO AND ELKO WERE BASICALLY CUT IN HALF BY THE PRESENCE OF THIS MAJOR EAST-WEST RAIL CORRIDOR. IT IS DIFFICULT FOR CITIES TO OPERATE EFFICIENTLY IF VEHICULAR TRAFFIC IS FREQUENTLY TIED UP WAITING FOR THOSE SLOW-MOVING FREIGHT TRAINS TO PASS THROUGH TOWN.

THE CONGRESS HAS RECOGNIZED THESE PROBLEMS AND FUNDED A PILOT PROJECT TO RELOCATE THE RAILROADS IN ELKO, NEVADA. THIS PROJECT WAS COMPLETED IN LATE 1983, AND AS A RESIDENT OF ELKO COUNTY, I CAN TELL YOU THE PROJECT IS A HUGE SUCCESS.

WITH THIS IN THE WAY OF BACKGROUND, I WOULD LIKE TO NOW DESCRIBE THE PROPOSAL OF THE 1983 NEVADA LEGISLATURE - SENATE JOINT RESOLUTION NO. 14.

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THE NEVADA LEGISLATURE MEMORIALIZES THE CONGRESS OF THE UNITED STATES TO SELL THE PUBLIC LANDS WITHIN THE "CHECKERBOARD" AREA, EXCLUDING THE MINERAL INTERESTS, TO THE STATE OF NEVADA FOR $2.50 PER ACRE. THE SUBSEQUENT SALE OF THIS LAND (EXCEPT FOR THOSE LANDS IDENTIFIED FOR PARKS, WILDLIFE, RECREATION AND OTHER PUBLIC PURPOSES) WOULD PRODUCE REVENUE WHICH COULD, AMONG OTHER THINGS, BE USED TO ELIMINATE HAZARDOUS GRADE CROSSINGS OF RAILROADS OVER HIGHWAYS IN NEVADA.

ALTHOUGH S.J.R. NO. 14 AND THE BILL WE HAVE PROPOSED ARE THE EXPRESSION OF THE 1983 NEVADA LEGISLATURE, WE, AS INDIVIDUAL MEMBERS OF THE LEGISLATURE'S COMMMITTEE ON PUBLIC LANDS, WOULD CALL YOUR ATTENTION TO SEVERAL SPECIFIC TOPICS WHICH MAY REQUIRE A DIFFERENT APPROACH. FOR EXAMPLE, S.J.R. NO. 14 CALLS FOR ALL OF THE PROCEEDS FROM SUBSEQUENT LAND SALES BY THE STATE TO BE USED TO REMOVE HAZARDOUS HIGHWAY-RAIL CROSSINGS IN NEVADA. PUBLIC SENTIMENT, HOWEVER, SEEMS TO FAVOR OTHER USES OF THIS REVENUE--SUCH AS FOR EDUCATION, FLOOD CONTROL, RECREATION, CONSERVATION AND SIMILAR PURPOSES. WE WOULD NOT OBJECT TO SUCH CHANGES IN THE PROPOSED BILL IF YOU THINK THAT IT WOULD IMPROVE THE CHANCE OF PASSAGE.

SECONDLY, MUCH CONCERN HAS BEEN EXPRESSED BY THE MINING INDUSTRY REGARDING OUR PROPOSAL. SOME MINING FIRMS HAVE EVEN GONE SO FAR AS TO SPECIFICALLY STATE THAT THEY WERE OPPOSED TO REDUCING THE AMOUNT OF FEDERAL LAND IN NEVADA AT ALL. WITH SOME 87 PERCENT OF NEVADA'S LAND AREA IN FEDERAL CONTROL, HOWEVER, WE FEEL THAT SUCH A POSITION IS BOTH UNREALISTIC AND NOT IN THE BEST INTERESTS OF NEVADA OR ITS CITIZENS.

THE CONGRESS MAY WISH TO PHASE-IN TRANSFERS TO THE STATE OVER MANY YEARS, WITH 100,000 OR SO ACRES PER YEAR, FOR EXAMPLE. IF THE PROJECT DID NOT APPEAR TO WORK OUT, CONGRESS AND THE NEVADA LEGISLATURE COULD JOINTLY TERMINATE THE PROGRAM. ALSO, THE MEMBERSHIP OF ANY REQUIRED STATE BOARD COULD BE SPECIFIED, AT LEAST IN CONCEPT, IN THE CONGRESSIONAL BILL.

BEFORE CLOSING, LET ME HIGHLIGHT ANOTHER PROPOSAL OF THE 1983 NEVADA LEGISLATURE WHICH, IN MY OPINION, HAS CONSIDERABLE MERIT. SENATE JOINT RESOLUTION NO. 15 INVOLVES THE ISSUE OF LAND EQUITY WITH OTHER WESTERN STATES. IT IS CLEAR THAT NEVADA WAS TAKEN ADVANTAGE OF BY THE FEDERAL GOVERMENT AT THE TIME STATEHOOD WAS GRANTED. OUR SMALL POPULATION DID NOT QUALIFY NEVADA FOR STATEHOOD ACCORDING TO THE CRITERIA THEN USED BY CONGRESS. HOWEVER, AN EXCEPTION WAS MADE FOR POLITICAL AND ECONOMIC REASONS RELATED TO THE CIVIL WAR.

NEVADA'S PREMATURE ADMISSION TO THE UNION CAUSED THE STATE TO EXCHANGE THE SCATTERED AND UNSURVEYED SECTIONS OF PUBLIC LAND GRANTED BY CONGRESS FOR A SMALLER AMOUNT OF DEVELOPABLE LAND LOCATED NEARER SOURCES OF WATER. LATER, IN ORDER TO BRING SETTLERS INTO THE STATE (NEVADA'S POPULATION WAS UNDER 43,000 AS LATE AS THE CENSUS OF 1900), MOST OF THESE LANDS WERE SOLD INTO PRIVATE OWNERSHIP.

DOCUMENTS ARE BEING PROVIDED TO YOUR SUBCOMMITTEE CONCERNING NEVADA'S REQUEST FOR AN ADDITIONAL GRANT OF LAND. THIS REQUEST WAS ORIGINALLY PREPARED IN 1970. A LENGTHY STUDY WAS COMPLETED THAT YEAR IN CONJUNCTION WITH THE ACTIVITIES OF THE FEDERAL LAND LAW REVIEW COMMISSION. UNFORTUNATELY, NEVADA'S REQUEST FROM 1970 GOT LOST IN THE SHUFFLE AS CONGRESS CONCENTRATED ITS EFFORTS ON DEVELOPING AN "ORGANIC ACT" FOR THE UNITED STATES BUREAU OF LAND MANAGEMENT.

THE 1983 NEVADA LEGISLATURE REVIVED THE LAND GRANT REQUEST FROM 1970 BY ENACTING SENATE JOINT RESOLUTION NO. 15.

IN ORDER TO PARTIALLY FULFILL NEVADA'S RESPONSIBILITIES UNDER SUCH A LAND GRANT, WE HAVE ALREADY INITIATED A COMPREHENSIVE LAND USE PLANNING PROGRAM INVOLVING FEDERAL LANDS IN THE STATE. THIS WAS ACCOMPLISHED BY PASSAGE AND FUNDING OF SENATE BILL 40, ALSO FROM THE 1983 LEGISLATIVE SESSION.

IN CLOSING, WE APPRECIATE THE OPPORTUNITY TO BRING THESE CONCERNS TO YOU, AND IT IS OUR HOPE THAT YOU WILL ASSIST US WITH THE LEGISLATION NEEDED.

THANK YOU FOR YOUR TIME, AND WE WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

Senate Joint Resolution No. 14—Committee on Natural Resources

FILE NUMBER.....

SENATE JOINT RESOLUTION—Memorializing the Congress of the United States to sell public lands within the "checkerboard" area of northern Nevada to this state to be sold to pay for eliminating grade crossings of railroads.

WHEREAS, Grade crossings of railroads are potentially hazardous and disruptive to the development of commercial, agricultural and urban interests; and

WHEREAS, The Congress of the United States has recognized this problem and funded a project to relocate railroads in Elko, Nevada, which would be beneficial if applied to other urban areas in this state; and

WHEREAS, The Federal Government administers 49.1 million acres of public domain in this state of which approximately 3.5 million acres was granted by Congress to the railroads in the 19th century and remains as a 40-mile strip of land across northern Nevada in an unmanageable "checkerboard" pattern of alternating sections of public and private land; and

WHEREAS, The Bureau of Land Management has designated the public lands within this area for eventual disposal; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That the legislature of the State of Nevada memorializes the Congress of the United States to sell the public lands within this area, excluding the mineral interests, to the State of Nevada for $2.50 per acre, for subsequent sale (except for those lands identified by state and local planning agencies as being desirable for parks, wildlife or recreational and other public purposes), the proceeds of which are to be used to eliminate grade crossings of railroads over highways in this state; and be it further

Resolved, That copies of this resolution be immediately transmitted by the legislative counsel to the President of the United States, the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives, the Secretary of the Interior, the director of the Bureau of Land Management and each member of the Nevada congressional delegation; and be it further

Resolved, That this resolution shall become effective upon passage and approval.

19 ... 83

Senate Joint Resolution No. 15—Committee on Natural Resources

FILE NUMBER.....

SENATE JOINT RESOLUTION—Memorializing Congress to grant an additional 6,205,522 acres of public land to Nevada.

WHEREAS, The United States Government, after more than 118 years have elapsed since Nevada became a state, still retains 86.8 percent of the land in Nevada; and

WHEREAS, The growth in population within this state and the resulting change in the use of the land has placed a heavy demand on the state and local governments to provide additional facilities for governmental services while abandoning existing facilities which have been rendered ineffective by changes in population; and

WHEREAS, These vast federally owned areas create a major tax burden on the owners of private property in this state to meet the needs of children for public schooling and other services; and

WHEREAS, Intermingled ownership of land among private persons and federal governmental agencies severely restricts proper practices for the conservation of this state's natural resources and the preservation of recreational, wildlife and environmental areas which are best suited for management by the state and local governments; and

WHEREAS, The federal ownership of a majority of the land in this state prohibits the orderly expansion of landlocked cities on a planned basis, without an adverse effect on the existing economy of local areas; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That the Nevada legislature memorializes the Congress of the United States to review the 1970 report of the Nevada state committee on federal land laws and Bulletin No. 83-8 of the select committee on public lands and, pursuant thereto, grant to Nevada an additional 6,205,522 acres of public land for the benefit of the public schools; and be it further

Resolved, That copies of this resolution and the publications referred to in this resolution be immediately transmitted by the legislative counsel to the President of the United States, the Vice President as presiding officer of the Senate, the Secretary of the Interior, the Speaker of the House of Representatives and to each member of the Nevada congressional delegation; and be it further

Resolved, That this resolution shall become effective upon passage and approval.

19 [redacted] 83

Senate Bill No. 40—Committee on Natural Resources

CHAPTER.....

AN ACT relating to lands in Nevada which are under federal management; providing for the preparation of plans or policy statements concerning the use of those lands; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 321 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. The state land use planning agency shall prepare, in cooperation with appropriate state agencies and local governments throughout the state, plans or policy statements concerning the use of lands in Nevada which are under federal management. The plans or policy statements must not include matters concerning zoning or the division of land and must be consistent with local plans and regulations concerning the use of private property.

2. The state land use planning agency shall encourage public comment upon the various matters treated in a proposed plan or policy statement throughout its preparation and shall submit its work on a plan or statement of policy periodically for review and comment by the land use planning advisory council, the state multiple use advisory committee on federal lands, the board of review created pursuant to NRS 321.5967 and any committees of the legislature or subcommittees of the legislative commission which deal with matters concerning the public lands.

3. A plan or statement of policy must be approved by the governing bodies of the county and cities affected by it, and by the governor, before it is put into effect.

Sec. 2. NRS 321.5967 is hereby amended to read as follows:

321.5967 1. There is hereby created a board of review composed of the:

(a) Director of the state department of conservation and natural resources;

(b) Administrator of the division of environmental protection of the state department of conservation and natural resources;

(c) Administrator of the division of mineral resources of the state department of conservation and natural resources;

(d) Administrator of the division of state parks of the state department of conservation and natural resources;

(e) State engineer;

(f) State forester firewarden;

(g) Chairman of the state environmental commission;

(h) Director of the department of energy;

(i) Executive director of the state department of agriculture;

(j) The chairman of the board of wildlife commissioners; and

(k) Administrator of the division of historic preservation and archeology of the state department of conservation and natural resources.

2. The chairman of the state environmental commission shall serve as chairman of the board.

3. The board shall meet at such times and places as are specified by a call of the chairman. Six members of the board constitute a quorum. The affirmative vote of a majority of the board members present is sufficient for any action of the board.

4. Except as provided in this subsection, the members of the board serve without compensation. The chairman of the state environmental commission and the chairman of the board of wildlife commissioners are entitled to receive a salary of $60 for each day's attendance at a meeting of the board and the travel expenses and subsistence allowances provided by law for state officers.

5. The board:

(a) Shall review and approve or disapprove all regulations proposed by the state land registrar under NRS 321.597.

(b) May review any decision of the state land registrar made pursuant to NRS 321.596 to 321.599, inclusive, if an appeal is taken pursuant to NRS 321.5987, and affirm, modify or reverse the decision.

(c) Shall review any plan or statement of policy concerning the use of lands in Nevada under federal management which is submitted by the state land use planning agency.

Sec. 3. NRS 321.735 is hereby amended to read as follows:

321.735 The state land use planning agency **[**shall review and evaluate land use policies and activities for lands in Nevada which are under federal management, and**]** may represent the interests of the state, its local or regional entities, or its citizens as these interests are affected by **[**federal land use**]** policies and activities **[**.**]** *involving the use of federal land.*

Sec. 4. The state land use planning agency shall report the progress and any results of its work under section 1 of this act to the 63rd session of the legislature.

Senator HECHT. I will direct these questions to you, Senator. Excuse me. Was there anyone else on the panel, or are you speaking for the panel?

Mr. GLASER. I have a very talented panel and we can refer questions to them.

Senator HECHT. Does anyone else want to make any remarks before the questions? Senator Bilbray.

Mr. BILBRAY. Senator James Bilbray representing the Las Vegas urban area—we also support from southern Nevada, even though this is a northern Nevada exchange, this is for the benefit of all the State, but we would like it on the record on behalf of the Clark County delegation that if this land is exchanged, we would like it not to interfere with the acquiring of Federal lands in southern Nevada around our metropolitan area, and the exchange program under Burton Santini, depending which side of the Sierra Nevada Mountains you come from, but especially in the Clark County area.

For the members that are here that do not understand the Nevada geography, this is a very southern tip of area. The large orange blot in the center is Las Vegas which I represent. We have some land problems down there. We are acquiring Federal lands. They are being sold, and we just want it in the record so that the committee not think that because we are asking for these two other proposals that we are thereby waiving any rights to acquire Federal lands in Clark County which are desperately needed for the expansion of the urban area which amounts to 58 percent of the entire population of the State.

Senator HECHT. Thank you very much, Senator. It would not conflict in any way. One is a sale and the other is an exchange. They are two different propositions. Anyone else have anything?

The legislature proposal calls for the disposal of 3.5 million acres of Federal lands. Is this all of the Federal checkerboard lands in our State or just part of it?

Mr. BILBRAY. Mr. Chairman, I have been asked to answer that question.

To the best of our knowledge, this is all the checkerboard lands except, of course, for the 1 million acres that still remain with the railroads.

Senator HECHT. Thank you. Could you give the subcommittee a general description of the uses to which these Federal checkerboard lands are now put? What are some of the more typical management problems and inefficiencies mentioned in your testimony?

Mr. GLOVER. Mr. Chairman, the basic use for that land coming across there, of course, is grazing. There is quite a lot of mining, farming in the Lovelock, Friendly area, and of course, urban uses around the metropolitan areas that constitute the center part of the State coming from Elko down to Reno.

Do you need my name for the record?

Senator HECHT. I'm sorry?

Mr. GLOVER. Should I identify myself for the record?

Senator HECHT. Please do.

Mr. GLOVER. Senator Alan Glover representing the Capital Senate District, Nevada Legislature—some of the problems that we have experienced, of course, through there is the inability to exchange some of the land and to block up some of these areas for

more efficient management. As you probably are aware, it is very hard to manage them in such a pattern because you don't know where you are on the land at any given time because it all tends to look pretty much alike.

We need to have an orderly expansion of these cities, and I think Senator Bilbray mentioned that that is a very important part of the Las Vegas area as it is through all these small towns, and of course, the Reno urban area access to the land is also important for sportsmen, and we have made sure in our legislation that that access would be guaranteed, and once we get this all blocked up and in the proper management, we can still guarantee that access.

Senator HECHT. As you know, the enactment of FLPMA in 1976 set down a general policy that the public lands should be retained in Federal ownership unless it is determined that disposal of particular parcels serves the national interest.

FLPMA also states that in all but a few specific instances, the Federal Government should receive fair market value for any land it sells.

Has your committee made any ballpark estimate of what the fair market value is of most of this checkerboard land?

Mr. NICHOLAS. Mr. Chairman, Assemblyman Dave Nicholas representing the North Lake Tahoe District—Mark Twain had suggested one of the most beautiful sights the Lord allows. Let me attempt to suggest to you that as Senator Glaser had mentioned, the starting point for discussion should probably be in an area familiar to us all in the area of $2.50 per acre.

However, in certain parcels to be negotiated, undoubtedly the values will be more just as in a few parcels of totally useless land it may turn out that the actual value is less, so if we may suggest that this be looked at individually, perhaps that is the answer to the question.

Senator HECHT. Thank you. Once the land is transferred to the State, should the State be required to ask fair market value for the land it sells?

Mr. NICHOLAS. Mr. Chairman, we believe in almost all cases the answer to that question is yes.

Senator HECHT. Does your committee contemplate that the State would grant a right of first refusal to adjacent landowners?

Mr. NICHOLAS. We believe that this should be done in many cases, but that again this particular policy should not be all-encompassing.

Senator HECHT. Because each section of Federal checkerboard land is landlocked by private parcels, wouldn't this land only be of value to adjacent landowners? How would the State get around this problem?

Mr. NICHOLAS. Because of the ability over the last 120 years for most Nevadans to penetrate most areas of the State, the routes of the existent roads have been utilized for many more than the minimal 5 years requested in this particular situation in order to isolate a parcel.

We believe that in the cases we are aware of at this time that there will be little problem in this area even though adjacent ranchers may have utilized particular parcels themselves for many years. Ingress and egress has often been established by the hunters

and the travelers in the State, and this should not be a major problem area.

Senator HECHT. Thank you. You mentioned in your testimony that while the elimination of dangerous railroad crossings is sensible public use for the State land sale revenues, other public uses for the money may be more appropriate.

How much money are we talking about here?

Mr. BILBRAY. Mr. Chairman—Senator Bilbray, district 7, Clark County again—I am not sure we really know at this time. It is probably, as Assemblyman Nicholas has stated, there is much land that is useless—side of mountains—that the Southern Pacific Railroad has made statements to our committee that there is a lot of their land that, a million acres remaining, that they would sell us for $2.50 an acre.

We just have no idea at this time. We just feel that the majority of it is ranching, grazing land, about 90 percent. There may be some small areas near the urban areas that are more valuable, but I really don't believe that the value of the land if taken en masse is substantially more than the price that we are asking the Government to sell it to us for.

Senator HECHT. Jim, you are from Clark County. Remember when the Governor sold Howard Hughes land for $2.50 an acre in the State? He traded it for the best land in Las Vegas.

Mr. BILBRAY. We would like to do the same.

Senator HECHT. Maybe you should buy the land from the railroad.

What other public uses have you indentified in your recent opinion survey and do they fit the national interest criteria established in FLPMA?

Mr. BILBRAY. Again, I would like to answer that, Mr. Chairman, when we had the testimony from the former Director of Public Land under the previous Republican Administration in our State which has been replaced by a Democratic Administration—as you well know, our legislature is controlled by the Democrats, even though we have elected two distinguished Senators from the Republican Party, but the previous party anyway, the former chairman came in, and with the railroad group, this group that wants to build the railroad crossings, they are the ones who proposed the legislation, and therefore that was the way it went through in the committee.

I opposed that myself. I thought that the money should go to other areas other than the railroad crossings even though I recognized the problem.

Other people have talked to us, the Clark County Commission especially. Mrs. Hayes is from that Commission, a former legislator, and has mentioned that flood control both north and south is a major concern. The educational groups of the State have approached us, and under our constitution, if the land is given to us, it is mandatory that the money go to education. If we buy at $2.50 an acre, of course, we can designate different areas of the State that money can go, but we are looking basically at education, flood control, and railroad and bridge construction, both north and south, and this money will not just be money spent in the north. It will be spent throughout the State as needed.

Senator HECHT. Thank you. I understand that Nevada's mining interests are very skeptical about this proposal. Will you care to summarize their concerns and suggest ways in which these might be addressed through your proposed legislation?

Mr. ERICKSON. Yes; Mr. Chairman, my name is Bob Erickson. I am staff director for the Public Lands Committee.

The concerns of the mining industry in Nevada are several. First of all, there is a desire for the retention of the mining law of 1972. This has been proposed by this committee.

Second, the mining industry would prefer that the mineral rights be reserved to the United States, and this is also part of our proposal.

Other concerns that perhaps have not been fully addressed would include the conflict that will result from those lands which are sold to private interests, and at the same time there are valid mining rights on that same land, and I think the mining industry is concerned that it is more difficult to mine on an area that has a different owner of the surface at a future date.

Another concern is that under the present system, public land may be used for the location of millsites and other related facilities for mining, so even if a land was left in Federal control or public control, the mining industry often wants adjacent land to locate millsites. If all of the surrounding lands were conveyed into the private sector, this would be more costly to them to have to lease land from private owners to locate a millsite which can presently be done on Federal lands for I believe no charge.

Perhaps another concern would include mining claims that have been filed that are not ready to be proved up at this time. There have been a lot of filings in here, and I think there is concern that some of these may be found invalid, going through this process, and I think some of the mining companies were concerned about this.

I think there is a desire from the standpoint of the mining industry that no land upon which mining claims have been filed be subject to the provisions of this act.

Senator HECHT. You realize that Nevada has more mineral exploration at the present time than any State in the Nation—very important for our national security because we have many minerals that are only found in Nevada. Also we have more gold exploration than any State.

Will this in any way affect the present mining interest?

Mr. ERICKSON. Mr. Chairman, I don't believe so, if these concerns can be addressed in the bill, so I think there should be serious consideration of perhaps excluding some of those that have identified mineral values, and I think the mining industry pointed out that a considerable amount of Nevada's mineral wealth is concentrated in this band, and we have been given examples of some of the gold mines and other mining operations that are already located in this band.

Senator HECHT. Senator Glaser, do the major mining companies in your area and around northern Nevada have full knowledge of this checkerboard plan?

Mr. GLASER. Yes, they do. They have considered it several times, and they have hired two very fine attorneys to explore the ramifi-

cations of the legislation, and they have expressed their concern in letters to me and to the committee, and we are aware of those concerns and we are attempting to meet them and rectify them through every feasible possibility.

We are very solicitous of the mining industry, and we certainly don't want to hurt the industry or the tremendous net proceeds of mines that accrue to the counties and State as a result of their activity. We recognize them as a viable industry and we want to keep them that way.

Senator HECHT. Has every mining company now operating in Nevada been informed of this?

Mr. BILBRAY. Mr. Chairman, I would presume their lobbyists are fully aware of it. In fact there is—James Bilbray again for the record. During the session it should be noted that we discussed this bill on numerous occasions in our Natural Resources Committee which I also am a member of, and continually the mining industry was there. They gave input and were very supportive of the bill.

It was only after the bill was passed out and we started preparing to bring that bill back to Washington that their concerns were expressed to us, and again, we feel that, the kind of attitude I got from the mining industry was up until then the devil was always the Federal Government, but they kind of gave me the impression that the devil they knew was better than the devil they didn't know, and they don't know what our attitude will be toward mining. On the other hand we may have more people to police the mining industry than the Federal Government does in Nevada, so they are afraid of some of the problems that might arise from I believe some of their own maybe negligence in the filing of some of these claims, that we may throw them out, and I think that is the biggest concern.

Senator HECHT. Your testimony mentioned that certain acreage would be set aside by the State for parks and recreational areas.

Do you think the selection should be done as part of the legislative process or be a matter left entirely to the State's discretion?

Mr. GLASER. Mr. Chairman—Senator Glaser again—I would like to respond to that.

I think it should be left to the State and the local to indicate what areas should be set aside for park and recreational areas. The Federal legislation certainly should make reference to this, that some would be, that the area, the checkerboard area would be looked at very closely.

By and large, the checkerboard swath that you see on the map strikes through the heart of the Great Basin area, and it is a semiarid desert type of terrain. The alkalai flats and rock slides and residual lands have been left over from the Homestead Act and so forth. There is probably very little in there for parks and recreation areas, but it is not to say there wouldn't be some that might be dedicated to that purpose, particularly in the vicinity of some of our communities.

Presently it has been referred to—the State of Nevada has a land planning process going on relative to public lands. The State thought enough of this procedure that following Secretary Watt's declaration to the Council of State Governments 2 years ago in Salt Lake City to let them know and to let you know what areas we

wanted in the State for certain purposes, that we have in a money short year, we appropriated $65,000 to hire two more planners to do this job, so I think it should be left up to our planning process to determine where the parks and recreational areas should be located.

Senator HECHT. Thank you, Senator. In your opinion, is the State of Nevada capable of administering such a large land sell program?

Ms. HAYES. Yes. Mr. Chairman, Karen Hayes, Clark County Commissioner—I think a lot has been said about our SB 40 which is the bill providing for a land use program.

Multiple use is certainly the key to this whole situation, and I think that we realize in the State of Nevada just how important planning is. In Clark County we have a very comprehensive plan that we are working on right now. In fact, I think it is exciting to look at the future and be able to really plan being a State like we are where we do have some vacant land, and I think certainly the State is better able to do this than the Federal Government.

Senator HECHT. Thank you very much. Just a personal observation—it's wonderful to hear people from my own State who are real experts and know all the situations.

I have been here a year and a half, and I am kind of tired of the Government experts here who have never been to Nevada telling me things about Nevada.

We are going to move right along to the next panel— Mr. Mark Chilton, Nevada's Checkerboard Land for Public Safety, Inc., Elko, NV.

STATEMENT OF MARK CHILTON, ON BEHALF OF NEVADA'S CHECKERBOARD LAND FOR PUBLIC SAFETY, INC., ELKO, NV

Mr. CHILTON. Good morning. My name is Mark Chilton, representing the nonprofit corporation, Nevada's Checkerboard Land for Public Safety.

I have submitted my written testimony. However, I would first like to highlight some of the paragraphs. Much of what I have said has been said before.

The nonprofit corporation that is working on this project is composed of citizens from Nevada, both north and south, to get a widespread representation of the needs for such a program and to furnish input that is meaningful to the legislative committee and to your group.

The demonstration that is proposed is that Nevada be designated as one of the lead States in this type of program because it does demonstrate a need that exists in other States, particularly Wyoming and Montana, which are two States represented on this committee, your committee.

I would like to point out the accomplishments of Nevada in the past when referring to this type of project in that the successful demonstration in Elko, NV, gives us some credibility on the accomplishment of such a broad, widespread task.

The Federal assistance that has been referred to in my testimony toward railroad grade crossings I will relate to in a little more detail. However, at the outset, as mentioned, in the 1800's land was granted to various States and also to railroads for the construction

of the transportation system. We feel that this is the continuation of the intent of the Congress to fully develop the rail carriers and to eliminate any unforeseen difficulties that have now arisen due to the public safety in railroad grade crossings.

The railroad grade crossings were created not necessarily by the railroads but by the traveling public using the highways and the streets, and this wasn't foreseen over 150 years ago when the railroads were being built.

The Department of Transportation and the National Transportation Safety Board has recognized the needs for improvements to railroad grade crossings. The funding level of this type of work from fiscal year 1974 through fiscal year 1983 has been $1.2 billion divided among the States of which Nevada has received approximately $7 million. This has been principally used for installing gates, flashing lights, improving advance warning signs to crossings.

However, the largest project has been accomplished in Elko with the demonstration of cities program of $43 million for the relocation of all the railroad tracks within the community, namely, two class 1 railroads, the Southern Pacific and the Western Pacific which is now Union Pacific, and the railroad yard out of the heart of town. This accomplishment was done as a demonstration of 1 of 18 demonstration cities, and it is the only major project completed to date out of that fiscal year 1973 funding.

In addition to other monies being spent by the Federal Government, there has been a $4 million inventory of railroad crossings that was a cooperative effort between the railroads and the Federal Government DOT. This puts us in line with immediate needs known as to the severity of the railroad grade crossing problem not only in Nevada but in the United States. For example, a hazard index listing of all railroad grade crossings has been accomplished by each State Department of Transportation. In the case of Nevada, the hazard index listing listed Fifth Street in Elko as the most severe hazardous crossing.

Fortunately, we were working on the crossing with our demonstration cities program. Next in line is Spring Mountain Road which is in Las Vegas, and following that is the Virginia/Arlington Streets of Reno.

I think it warrants mention that even though Elko started in 1972 with their project, they were addressing the correct crossings as to a hazard index rating at that time.

Other comments I would like to make have to do with the applicability of this type of project to designate the moneys to be used for railroad grade crossings rather than some other purpose. Now I am certain and more than willing to consider other public purposes. However, on a national basis, it is worthy of note that historically the Federal Government has granted lands in the form of sections to the various States for the improvements of transportation, schools, swamp removal.

Now I have tabulated the States represented by your committee, the subcommittee here today, and of that list, Nevada has received next to the least number of acres for assistance in those areas—schools, transportation—as to railroads and swamp removal. Fortunately, our swamps are now beginning to occur down the Lovelock

area and we might be qualified to funnel some money in that direction from land. However, this amount of acreage that has been granted to Nevada for these purposes amounts to approximately 2.7 million acres. Of your committee, New Mexico has received the most with 12.8 million acres, and basically most of that was granted toward schools.

Now schools are a very important part of the recognition by the Federal Government to assist the States, land for schools. I would like to point out that school buses use these very same hazardous railroad grade crossings that are the subject of our project. In fact, most of the crossings that have been eliminated in all States have been involved in the interstate and the open highway system. However, school buses do not pick up students on the interstate. They use the out-of-the-way, off-road crossings.

Now in the assistance of schools, I believe this grant for the elimination of grade crossings can accomplish something that would be very positive that is not normally funded on a very high level in school district funding, so therefore, it does have applicability to the safety and welfare for schools.

I believe that would conclude the remarks that I would initiate on my own. However, I will be glad to answer any questions.

Senator HECHT. Thank you very much, Mr. Chilton. Your full testimony will be a part of the record.

[The prepared statement of Mr. Chilton follows:]

Testimony of

NEVADA'S CHECKERBOARD LAND FOR PUBLIC SAFETY INC.
(A Nevada Non-Profit Corporation)

by

Mark Chilton, Trustee
421 Court Street
Elko, NV 89801

(702) 738-2121

Before the Senate Sub Committee on Public Land and Reserved Water.
Senator Malcolm Wallop (Wyoming), Chairman.

Dated

June 12, 1984

10:00 a.m.

Testimony of

NEVADA'S CHECKERBOARD LAND FOR PUBLIC SAFETY INC.

NEVADA'S CHECKERBOARD LAND FOR PUBLIC SAFETY INC. is a nonprofit corporation organized for the specific purpose of the advancement of safety, commercial, industrial and agricultural activities in the interest of the State of Nevada and to eliminate all railroad/highway crossings within the State of Nevada by utilizing funds derived from the sale of public lands within the "CHECKERBOARD" area of this state.

It is the intent of proposed legislation to designate Nevada as a pilot or demonstration state for the purpose of developing guidelines and procedures for the orderly disposal of CHECKERBOARD lands for the purpose of funding construction projects necessary for the elimination of railroad/highway grade crossings that occur in the several Public Land Western States.

The State of Nevada can point with pride toward their accomplishment of a demonstration project of railroad crossing removal from an urban area in Elko, Nevada, which was the result of Senate Bill No. S 502 of the 93rd Congress in 1973. The Elko, Nevada demonstration is the only major project completed to date and has successfully accomplished the intent of Congress in developing guidelines and methods of performing the many tasks involved in a major railroad relocation project which eliminated 17 major grade crossings from an urban community.

In addition to the legislation creating the Demonstrations City Program, Congress has also recognized the necessity for funding railroad grade crossing improvement programs throughout the several states. It has been recognized that railroad/highway grade crossing projects must receive Federal funding assistance due to their relative expensive nature and the benefits derived therefrom extend to the highway traveling public more so than the railroads. Excerpts from a report by the Nation Transportation Board of an accident between a school bus and a train, reinforcing this point, is attached as Exhibit A.

Land grants for the purpose of assisting states in the construction of transportation facilities, particularly canals, roads, and railroads, have precedence dating from 1823 as stated in a brief history of such grants published by the Bureau of Land Management attached hereto as Exhibit B. The benefits of said grants were:

> "1) To accelerate the settlement of the country and the development of its natural resources;
>
> 2) safer and more expeditious and comfortable travel;
>
> 3) the enhancement in value of the adjacent government and private lands and

the increase of taxable wealth, generally;

4) the strengthening of National Defense."

The legislation now being proposed by Nevada may be considered as continuing the intent of Congress because the same benefits cited above are still possible to achieve today by the grant or sale of lands remaining in the CHECKERBOARD area to the State of Nevada for the purpose intented.

It should also be stated that the original intent of Congress will be achieved regarding the settlement of the CHECKERBOARD lands that were retained for such purpose but were not sold to settlers due to their inability to make a livelihood with the limitations of one square mile. The "settlers" now exist in the form of ranchers who own the adjacent CHECKERBOARD lands and are willing to acquire the remaining Government sections to form a contiguous land holding that provides an economic size.

Very significant statements and recommendations are made in the report of the railroad/school bus accident by the National Transportation Safety Board, dated 1972 and I quote:

> "The Safety Board has addressed this problem in two previous railroad/highway reports. In both reports the Board recommended that Federal funds be made available for highway/railroad grade crossing safety improvements on nonfederal aid roads as well as on the Federal aid highway system; and that Congress and the Department of Transportation consider the minimal use of Federal funds by states for grade crossing safety protection because the states apparently prefer to use the funds for general highway expansion or improvements."

Also in the recommendations portion of this accident report, the No. 1 recommendation of the Safety Board was:

> "The Department of Transportation seek legislation which would extend the use of Federal funds now available for grade crossing safety and improvement on the Federal highway system to include those railroad/highway grade crossings on nonfederal aid highways."

The legislation now being proposed by Nevada, I feel, addresses these two statements directly with the advantage of not requiring appropriations of tax dollars, rather the utilization of land sale proceeds to achieve the goals.

The question may arise among the Committee members as to why Nevada and not one of the several other public land states, so I would like to address that point. Nevada is unique in that there are only

350 main line highway/railroad grade crossings throughout the state. Nevada also has approximately 3.5 million acres of land remaining in the CHECKERBOARD area; Nevada has 87 percent of its land area still in Federal control; and Elko, Nevada, has been the successful demonstration city which has addressed the problems of railroad/highway grade crossings. Additional advantages of the elimination of railroad grade crossings within the State of Nevada that would have national significance, is that by the elimination of the grade crossings across Nevada would create the first step in a high speed rail corridor which would benefit Interstate Commerce and National Defense. Nevada is also considered as a prime candidate for a hazardous waste disposal site and the transportation of this waste is planned by rail carrier and the elimination of grade crossings would be an obvious advantage of insurring safety to the public.

In summation, Nevada's CHECKERBOARD LAND FOR PUBLIC SAFETY proposal warrants your serious and positive consideration as the first step in solving two national problems: 1) the orderly disposal of the remaining unmanageable CHECKERBOARD lands throughout the several states, and 2) the elimination of hazardous railroad/highway grade crossings without the necessity of appropriations of Federal dollars which would impact the already deficient Federal budget.

Thank you very much. I will be pleased to answer questions at this time if able, or to furnish the Committee with information in the near future requiring research.

EXHIBIT A

SS-R/H-6

RAILROAD/HIGHWAY ACCIDENT REPORT

PENN CENTRAL
FREIGHT TRAIN/SCHOOLBUS COLLISION
NEAR CONGERS, NEW YORK

MARCH 24, 1972

ADOPTED: MARCH 21, 1973

NATIONAL TRANSPORTATION SAFETY BOARD
Washington, D.C. 20591
REPORT NUMBER: NTSB-RHR-73-1

Figure 2. Final position of schoolbus and lead locomotive.

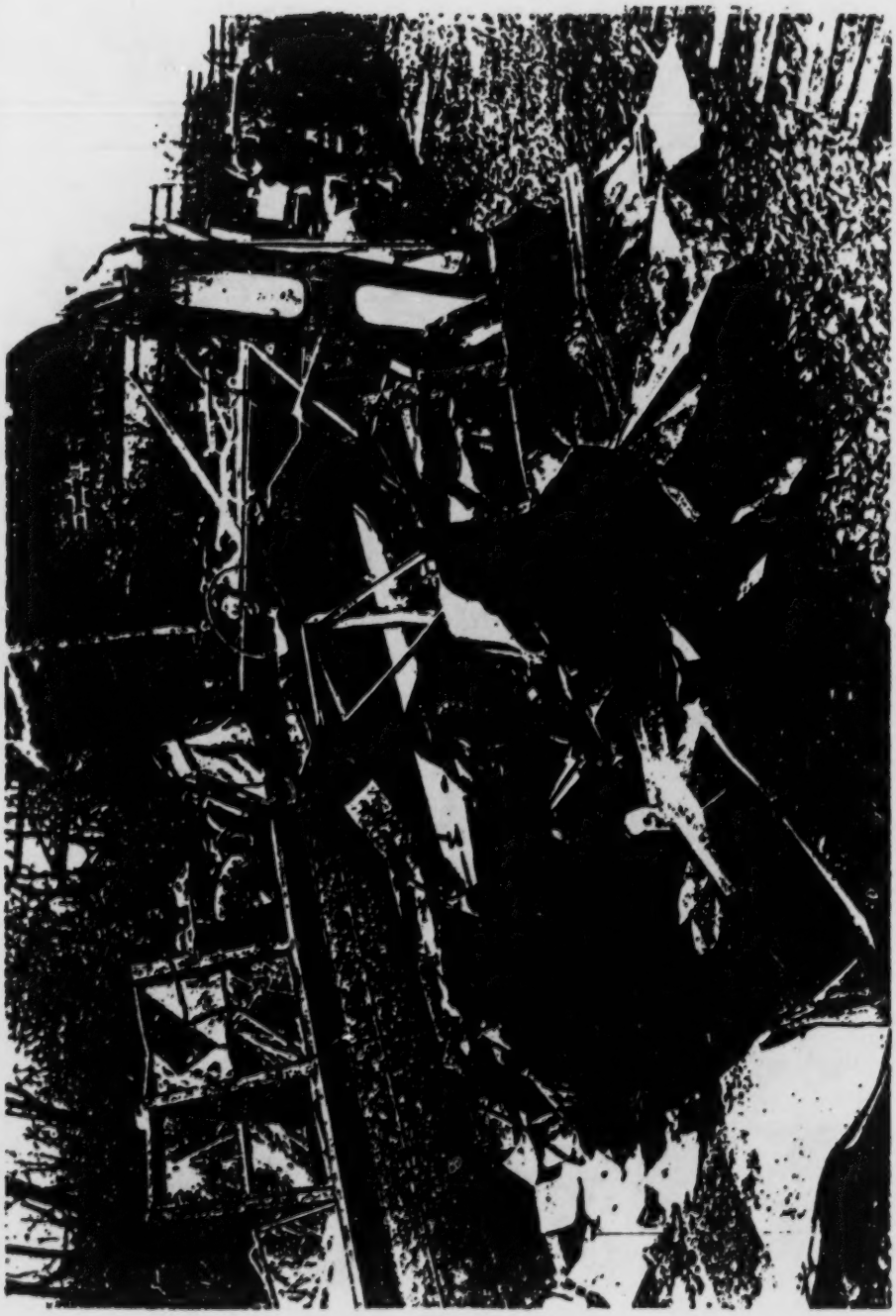

Figure 5. View of the schoolbus after rescue operations were completed.

INJURY SEVERITY ACCORDING TO OCCUPANT SEATING POSITION

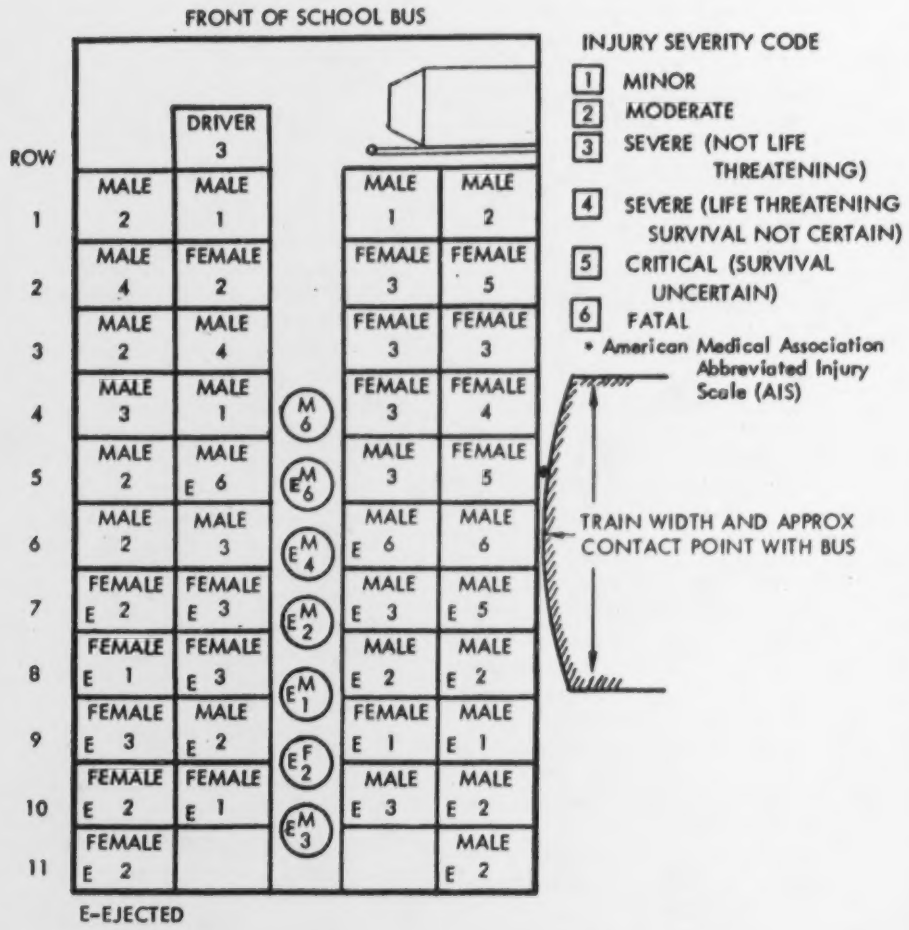
FRONT OF SCHOOL BUS
ROW
DRIVER 3
1 MALE 2 | MALE 1 | MALE 1 | MALE 2
2 MALE 4 | FEMALE 2 | FEMALE 3 | FEMALE 5
3 MALE 2 | MALE 4 | FEMALE 3 | FEMALE 3
4 MALE 3 | MALE 1 | FEMALE 3 | FEMALE 4
5 MALE 2 | MALE E 6 | MALE 3 | FEMALE 5
6 MALE 2 | MALE 3 | MALE E 6 | MALE 6
7 FEMALE E 2 | FEMALE E 3 | MALE E 3 | MALE E 5
8 FEMALE E 1 | FEMALE E 3 | MALE E 2 | MALE E 2
9 FEMALE E 3 | MALE E 2 | FEMALE E 1 | MALE E 1
10 FEMALE E 2 | FEMALE E 1 | MALE E 3 | MALE E 2
11 FEMALE E 2 | MALE E 2
M6
EM6
EM4
EM2
EM1
EF2
EM3
E-EJECTED
INJURY SEVERITY CODE
1 MINOR
2 MODERATE
3 SEVERE (NOT LIFE THREATENING)
4 SEVERE (LIFE THREATENING SURVIVAL NOT CERTAIN)
5 CRITICAL (SURVIVAL UNCERTAIN)
6 FATAL
* American Medical Association Abbreviated Injury Scale (AIS)
TRAIN WIDTH AND APPROX CONTACT POINT WITH BUS

Figure 6. Precrash position of bus occupants and severity of each occupant's injuries.

accident costs would be reduced by nearly three times the installation and maintenance cost of the improvements."[12] Such a value should not be overlooked in the determination of priorities for the expenditure of Federal highway funds.

The Safety Board has addressed this problem in two previous railroad/highway accident reports.[13] In both reports, the Board recommend that Federal funds be made available for highway/railroad grade crossing safety improvements on non-Federal-aid roads as well as on the Federal-aid highway system; and that Congress and the Department of Transportation consider the minimal use of Federal funds by States for grade crossing safety protection because the States apparently prefer to use the funds for general highway expansion or improvements.

IV. CONCLUSIONS

1. The schoolbus driver and the traincrew had an unobstructed view between vehicles when they were within 500 feet of the crossing.
2. The train horn was audible for some time prior to the collision to several passengers in the bus as well as to witnesses who were near the crossing. It is not known whether the schoolbus driver heard the train horn.
3. The dark color of the locomotive increased the likelihood of the locomotive's blending into the surrounding environment. This factor, however, was not significant when the schoolbus was still within a safe stopping distance from the track.
4. The schoolbus driver did not stop at the stop sign at the grade crossing. Because of the criminal charges placed against the driver as a result of the accident, his explanation of this failure to stop was not made available to the Board.
5. The schoolbus driver would necessarily have been unable to report for work at 9 a.m. with the New York City Fire Department on the days he drove the morning bus route. At the time of the crash, he was already behind his normal schedule, due to a detour. If he had stopped for the train, he would have been further delayed.
6. There is a need for the scrutiny of schoolbus drivers who hold other jobs which require them to be present at times which could adversely influence their driving behavior.
7. The mechanical condition of the schoolbus and train did not contribute to this accident.
8. The geometry and condition of the road, track, and crossing did not contribute to this accident.
9. The train and its crew were in compliance with all applicable rules and regulations.
10. The route for the schoolbus could have been established to eliminate the Gilchrist railroad/highway grade crossing without affecting the economy or the system.
11. There is a need for the State of New York Department of Education to expand its pupil-transportation activities to assist in training, supervision, and management at the local levels.
12. The administration and management of the pupil-transportation system in the Nyack School District were largely informal. With few exceptions, there were no written policies and procedures. Those provided by the State of New York were not always followed completely.
13. This accident might have been prevented if the crossing had been protected by railroad gates and/or flashing lights. The installation of such active protection devices at crossings on non-Federal-aid highways is limited under existing economics in State and local government and in the railroad industry.
14. The normal crossbuck sign was missing, and the advance-warning sign was placed too close to the crossing to serve as an advance warning.

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[12] U.S. Department of Transportation Report to Congress: Railroad/Highway Safety, Part I: A Comprehensive Statement of the Problem, 1971.

[13] See Footnote 2.

15. The driver was familiar with the existing crossing from the direction of travel usually followed in the completion of the schoolbus route. It is not known what, if any, his familiarity with the crossing was from the direction of approach on the day of the accident.
16. The crash forces produced on the bus by the front surface of the train at about 25 m.p.h. were sufficient to produce direct injury only to passengers in the area directly impacted.
17. Some of the fatal injuries to passengers were the result of abnormal dynamics and contacts which occurred when the bus structure disintegrated.
18. At least two of the five fatalities were ejected as a result of a floor separation and the lack of availability and use of an occupant-restraint system in the bus.
19. The controversy over the feasibility of installing active occupant-restraint systems in schoolbuses suggests the need for a demonstration project to obtain data which can be used to resolve the question.
20. The structural disintegration of the bus displayed many examples of failures at joints assembled with relatively few fasteners; such construction is typical of current schoolbus construction practices.
21. Several of the passengers experienced severe crash injuries from sharp metal edges which were exposed by the separation of structural parts of the bus body.
22. The capacity ratings for schoolbuses used to transport high school students do not always accurately reflect the actual seating capacity of the bus.
23. The special status of innocent passengers transported by schoolbus drivers necessitates that driver qualifications be more than those presently required in many instances. Whenever applicable, the qualifications should be at least equal to those for drivers of interstate motor carriers as found in the Motor Carrier Safety Regulations of the Federal Highway Administration (49 CFR 391).
24. The intended effect of the stop sign was not clear, since a requirement to stop at all times had been abrogated by the absence of any history of local enforcement.

V. CAUSE

The National Transportation Safety Board determines that the cause of this accident was the failure of the schoolbus driver to stop at the stop sign until the crossing was clear of railroad traffic. The reason for this failure could not be determined.

Contributing to the accident was the unnecessary routing of the schoolbus over a not specially protected railroad/highway grade crossing. Contributing to the number of fatalities and the severity of injuries were: (1) the lack of structural integrity of the body of the schoolbus, (2) the absence of highback padded seats and an occupant-restraint system in the schoolbus, (3) the presence of standing students in the bus, and (4) the action of the coupler of the lead locomotive, which caused the crash forces to be concentrated on the bus.

VI. RECOMMENDATIONS

On September 22, 1972, the National Transportation Safety Board directed a recommendation relating to this accident to the National Highway Traffic Safety Administration. (See Appendix D.)

The Safety Board further recommends that:

1. The Department of Transportation seek legislation which would extend the use of Federal funds now available for grade-crossing safety and improvement on the Federal Highway System to include those railroad/highway grade crossings on non-Federal aid highways. (Recommendation No. H-73-9)
2. The National Highway Traffic Safety Administration, in its revision of the Federal Highway Safety Program Standards, continue the requirement which states that schoolbus drivers are to "be qualified as a driver under the Motor Carrier Safety Regulations of the Federal Highway Ad-

EXHIBIT B

TRANSPORTATION

WAGON ROAD LAND GRANTS

The policy of land grants in aid of transportation was inaugurated by Congress 116 years ago in the act of February 28, 1823, which awarded land to the State of Ohio for the construction of a wagon road from "the lower rapids of the Miami of Lake Erie to the western boundary of the Connecticut Western Reserve." Calling for the building of a road 120 feet wide, the law granted land for "one mile on each side" to aid the State in defraying the cost of construction.

Altogether, 12 wagon-road land grants, described in detail in the accompanying table, were authorized by Congress, the last being made on March 3, 1869.

CANAL AND RIVER IMPROVEMENTS

On March 2, 1827, grants of land to Indiana and Ohio, for the construction of a canal on the Wabash River to Lake Erie, set under way this phase of transportation development.

Subsequently, nine other grants, outlined in the tables, were made to various States for the same purpose, the last being awarded on July 3, 1866.

Four grants for river improvements also were made, Alabama being awarded land on May 22, 1828, Wisconsin on August 8, 1846, and Iowa on August 8, 1846, and July 12, 1862.

RAILROADS AIDED NATION'S GROWTH

The effect of gleaming lines of railroads constructed through grants of public land upon economic and sociological conditions in the United States constitutes an interesting chapter in the westward development of the Nation. Not only did the far-flung transcontinental routes play their part in the advancement of civilization, but the network of land-grant construction around the Great Lakes proved an important factor in the development of the Middle West, particularly in Illinois, Michigan, Wisconsin, and Minnesota.

Voluminous records, including reports of the Interstate Commerce Commission, tell the fascinating story of the railroads' place in the Nation's scheme of development. Summarized, they show that while historians agree these roads probably would have been constructed, sooner or later, without Federal aid, they also are of the opinion that, on the average, the land-grant lines were extended into or through undeveloped sections of the country at least 10 and possibly as much as 15 years earlier than otherwise would have been the case.

Viewed from its broad national aspect, the principal indirect benefits from the construction of these lines may be summarized to include (1) the acceleration of the settlement of the country and the development of its natural resources; (2) safer and more expeditious and comfortable

travel; (3) the enhancement in value of adjacent Government and private lands, and the increase of taxable wealth generally, and (4) the strengthening of the national defense.

The population of the United States in 1830 was to be found very largely along the Atlantic and Gulf coasts, the rivers, and the Great Lakes. Sections distant from navigation facilities were very thinly populated, especially in the great prairie areas, which were without timber for the construction of homes. Wagon roads were provided to some extent into the areas inaccessible by water, but the transportation of freight over these primitive roads was economically feasible for only very short distances.

The advent of the railroad relieved this transportation handicap and enabled the settlement of sections inaccessible by water. Moreover, in Illinois and the sections west of the Mississippi River the impetus to settlement resulting from the construction of railroads was not confined to the ordinary flow of immigration consequent upon the establishment of transportation facilities.

Increased tonnage was necessary to make the rail ventures profitable, and increased tonnage could come only with increase of population. Furthermore, the railroads which had received land grants desired to convert them into cash. Consequently, the early railroads in these sections fostered immigration as much as possible, in many instances through the dissemination of information at home and abroad. As a result of these efforts there was a large immigration to these sections from foreign countries as well as from the eastern portion of the United States. Moreover, many of those who came to these sections as laborers in connection with the construction of the railroads later became settlers.

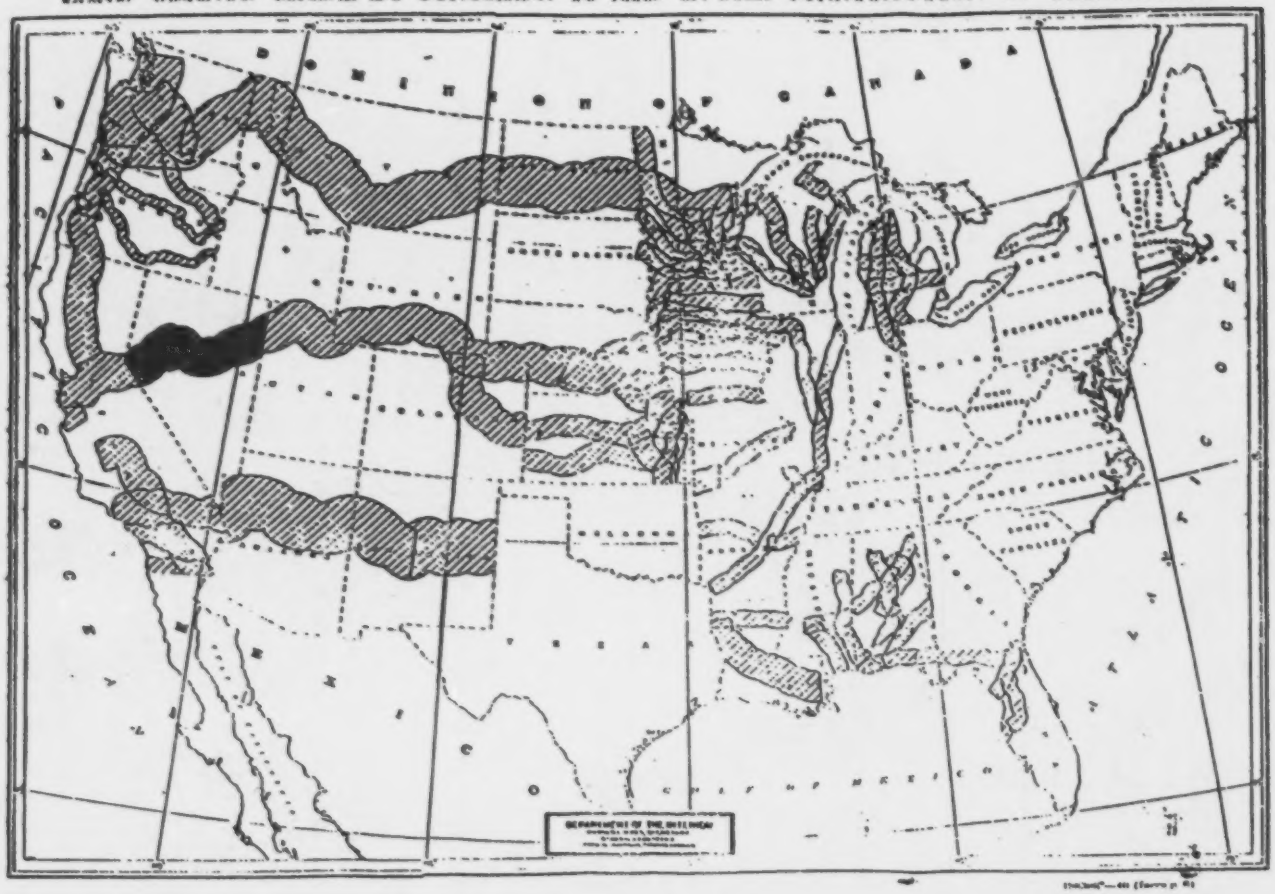
Some idea of the influence of the construction of the early railroads in Illinois and the portion of the United States west of the Mississippi may be gathered from the increase in the population of Illinois which followed the construction of the original lines of the Illinois Central. Construction of these lines began in 1851, and they were all in operation in 1856. The population of Illinois increased from 851,470 in 1850 to 1,711,951 in 1860. In 1850, there were only 10 towns in the vicinity of the Illinois Central's route, as compared with 47 in 1860 and 81 in 1870. At the close of 1857, a total of 1,321 homes had been built on grant lands between Richton and Mattoon, Ill., a distance of approximately 150 miles.

Large quantities of timber and minerals were to be found in many of the sections inaccessible by water, but they were of little or no value for want of transportation facilities; here again the construction of the railroads made an important contribution to the development of the country, although there is also a dark side here, as was revealed later in efforts to overcome the effects of a wasteful exploitation of our natural resources.

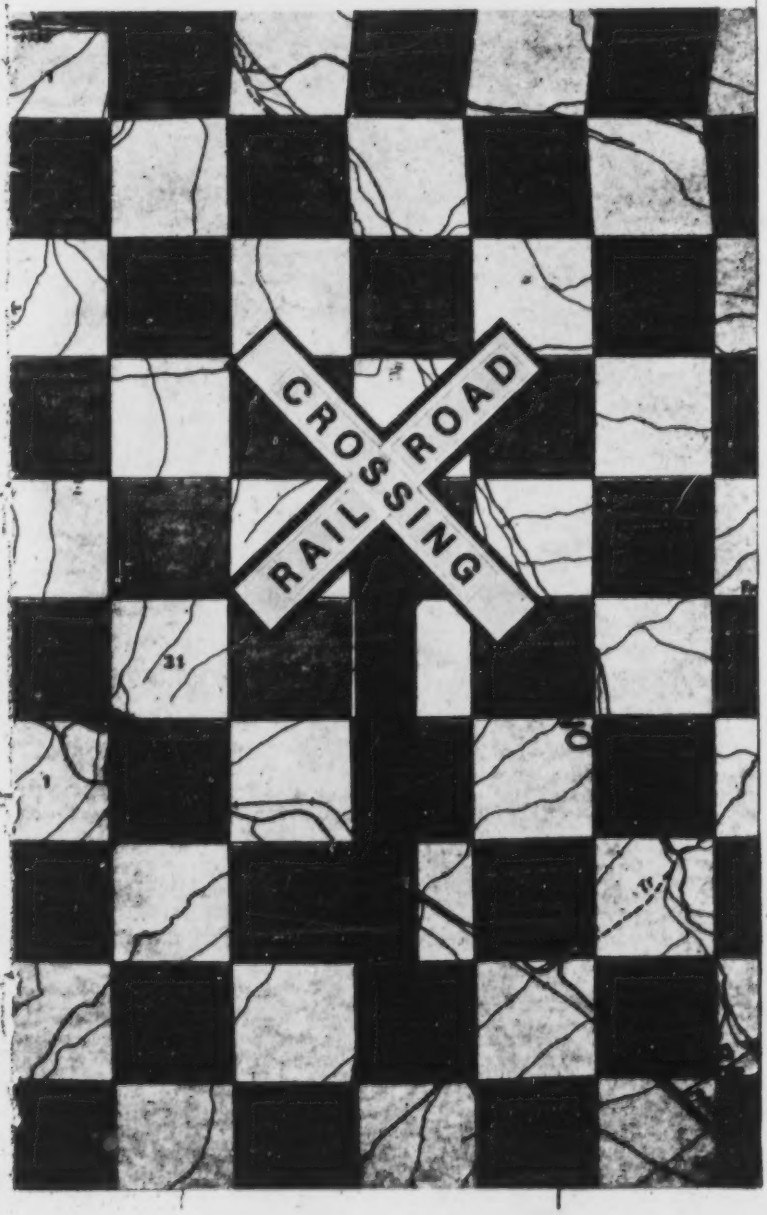
Reduction in travel costs between sections of the country was another benefit derived from the construction of the land grant railroads. For example, in the days of stagecoach transportation, it cost $20 to travel from Philadelphia to Pittsburgh, a distance of 297 miles, while the slow progress of the trip brought added expenses of food and lodging en route; today the journey costs only $8.69 by railroad.

The time consumed in travel also was materially reduced by the construction of the railroads. In 1812, it took 6 days to go from

LAND GRANTS MADE BY CONGRESS TO AID IN THE CONSTRUCTION OF RAILROADS

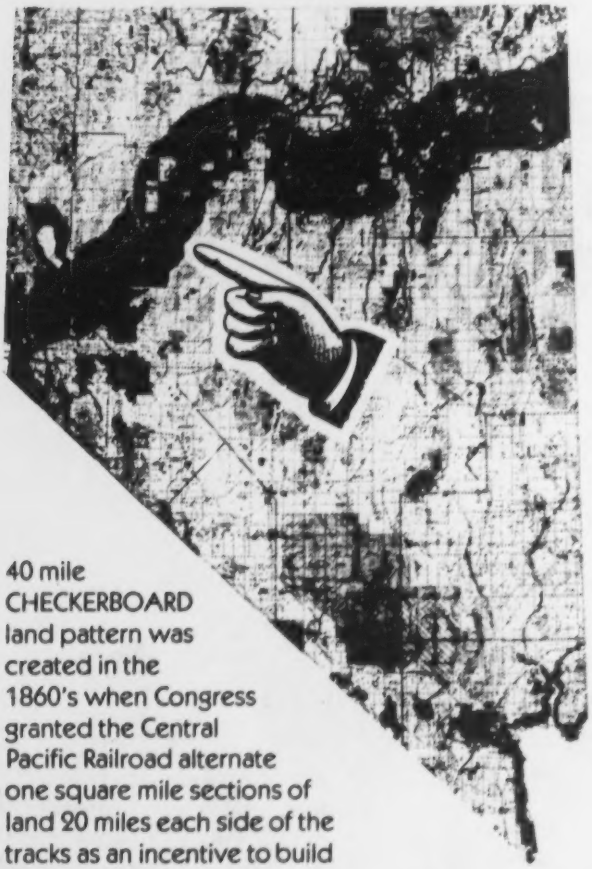


NEVADA'S CHECKERBOARD LAND BANK FOR PUBLIC SAFETY



WHAT

An innovative project to eliminate all Railroad-Highway crossings within the State of NEVADA by utilizing funds derived from the sale of public lands within the "CHECKERBOARD" area as shown.



40 mile CHECKERBOARD land pattern was created in the 1860's when Congress granted the Central Pacific Railroad alternate one square mile sections of land 20 miles each side of the tracks as an incentive to build RAILROADS west.

This resulted in approximately 8,000,000 acres of private and federal lands being unmanageable, inefficient and low productivity.

WHY

Final position of school bus and lead locomotive.

- SAFETY to the traveling public
- Removal of major PLANNING BARRIERS to local governments
- Eliminate UNMANAGEABLE checkerboard land pattern
- Reduction of POLLUTION and ENERGY WASTE
- Adding 6% to existing 10% land TAX BASE
- Improve economic status of CONSTRUCTION industry in Nevada
- Provide lands for commercial DIVERSIFICATION and ECONOMIC stability
- Facilitates future HIGH SPEED rail transportation
- Demonstrates FEASIBILITY to other States with checkerboard land patterns

HOW

United States Congress requested to transfer Checkerboard Lands to the State of Nevada for disposal by sale.

State of Nevada will sell lands at market value with long term low interest rate contracts.

Funds used to finance construction projects which eliminate the Railroad-Highway Crossings throughout urban and rural Nevada.

Railroad-Highway Crossings will be eliminated by overpasses, underpasses, or rerouting the Highway or the Railroad.

FACT SHEET

LAND FACTS

Nevada Land Area Totals 70,745,600 acres

Approx. 7,000,000 acres on tax rolls = 10% total

Project Checkerboard Approx. 4,000,000 ac or 6% addn'l.

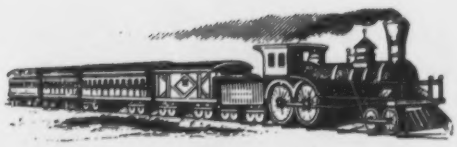
Estimated funds available $400,000,000

RAILROAD HIGHWAY CROSSINGS FACTS

Total Number Crossings in Nevada = 350

Four Major Railroads —

Southern Pacific Railroad
Union Pacific Railroad
Western Pacific Railroad
Nevada Northern Railroad



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PLAN

Elko, Nevada's, Railroad Crossing Demonstration Project, started in 1973 and to be completed in 1984, has proven the feasibility of the elimination of grade crossings with the cooperation of the Community, State, Federal Highway and Federal Railroad Administration, Railroads and the Public.

Projects will be funded on a priority basis using a train vehicle index factor.

School Buses and Emergency Vehicles crossing use to get high priority.

Environmental concerns to be protected.

Mining Rights to be reserved to the U.S.

Scenic and Recreation areas to have access insured to the public.

First Option to purchase to adjacent land owner or historical user.

RESULT

TWO MAJOR PROBLEMS SOLVED WITHOUT ANY FEDERAL OR STATE APPROPRIATIONS.

Senator HECHT. Your testimony indicates that States have historically overlooked the need for improving railroad grade crossings, choosing instead to spend their public works money on general highway expansion.

Why do you think this has occurred?

Mr. CHILTON. This has been the case probably because of the high cost first of a railroad grade crossing elimination project, and the local States until 1976 which I mentioned was the hazard index listing of crossings, until that came online, the States were more involved in the interstate development, in improving the existing roads, and the railroad crossings were looked at as a shared responsibility with the railroads. In fact, in those years the 50/50 arrangement was usually worked out with railroads and the local community.

However, since that time, and recognizing that a railroad crossing elimination project is a public and a Federal responsibility, the funds have come from the Federal Government to do that, so I believe the streets and highway priority issue and the lack of an organized plan—but communities and States do have that plan at this time.

Senator HECHT. Thank you. Has any progress been made on implementing the recommendation of the National Transportation Safety Board mentioned in your testimony?

Mr. CHILTON. Yes. This answer follows along the previous answer; $1.2 billion has been allocated to the various States, and to that end, most States, in fact, reviewing your committee State representation, you are between 75 and 85 percent complete in the upgrading of the various crossings throughout the State in the safety measure.

Senator HECHT. What has been the total cost to date of the Elko, NV, railroad relocation project?

Mr. CHILTON. To date and conclusively, $43 million; the last contract has been let and the costs are firmed up.

Senator HECHT. How much do you estimate is needed to bring the rest of the State's railroad grade crossings up to par?

Mr. CHILTON. The $250 to $300 million which we anticipate in land grants, or this land sale to the State would generate, would make a significant impact in that total construction cost. The process of consolidating various crossings, rerouting streets and highways, can make a significant impact in cost savings, and it is our committee's feeling that the $200 to $300 million would be sufficient.

Senator HECHT. Thank you very much. We are going to move right along, and I would like to mention that we have all the Nevada people here and we have someone from the Washington bureau of the press, Chris Cristo, covering us, so we are going to get a legitimate explanation of this hearing.

Thank you. Nice to see you, Chris. Thank you for coming.

Mr. CHILTON. Thank you.

Senator HECHT. Mr. Charles Callison, Public Lands Institute of the National Resource Defense Council, Washington, DC; Mr. Terry Sopher, Wilderness Society, Washington, DC—Mr. Callison?

STATEMENT OF CHARLES H. CALLISON, DIRECTOR, PUBLIC LANDS INSTITUTE OF THE NATIONAL RESOURCE DEFENSE COUNCIL, WASHINGTON, DC

Mr. CALLISON. Thank you, Mr. Chairman. Mr. Chairman, in the less than 48 hours since I have learned of this hearing, I haven't had an opportunity to give this subject the serious study that I think it needs, nor the thoughtful consideration, so I will make only a few comments this morning based on my quick reaction to the proposal, and then ask your permission to file a more thoughtfully prepared statement within the 2 weeks that you have said we have.

Senator HECHT. Absolutely; you have 2 weeks. Thank you.

Mr. CALLISON. Mr. Chairman, I have been in Nevada many times, and I have been outside the city limits of Reno and Las Vegas a great deal, so I am not one of those who has gathered his impressions of your great State in those cities. It is a great State. However, I haven't yet seen one of your swamps that I heard referred to. I will be interested in finding one sometime in Nevada.

You have some great marshes. The difference, of course, is a marsh is a wetland covered with grass, and a swamp is a wetland that grows trees.

Senator HECHT. Excuse me. I am advised that this year there was a tremendous amount of rainful. We have a lot of swamps.

Mr. CALLISON. You have some new swamps. Well, I imagine there are many times when the appearance of swamps, the temporary appearance of swamps is welcome.

Mr. Chairman, it seems to me that—and I do understand the motivation that causes the State of Nebraska to come in from time to time to Congress and seek gifts of land or gifts of Federal resources, and it seems to me that you are being asked in this proposal to consider and perhaps to perpetuate a colossal give-away of Federal assets, assets that belong to the people of the United States, so that is one of my concerns that I would like to address studiously in my written statement.

The other is that the Federal lands—in the Federal Land Policy and Management Act, Congress not only authorized the sale of BLM lands that met certain conditions, but said that this should only be done after BLM carried out its land use planning process in accordance with the provisions of that act.

The Bureau has not had the opportunity to do that on more than a small part of these lands that are within the checkerboard strip across Nevada, and at the very least I think we should wait for the completion of that process before any decisions are made to sell any of the land. There are resources of great value to the public beyond grazing, beyond the salable grass and the minerals which have been mentioned here.

That will conclude my remarks, Mr. Chairman, for the morning, and I thank you again for the opportunity.

[The prepared statement of Mr. Callison follows:]

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Statement by Charles H. Callison, Director, Public Lands Institute, a Division of the Natural Resources Defense Council

To Subcommittee on Public Lands and Reserved Water, Senate Committee on Energy and Natural Resources:

This written statement is submitted, in accordance with Committee rules, for the record and to supplement my brief oral remarks at the oversight hearing held June 13 on "Federal land management problems on 'checkerboard' lands in northern Nevada."

With a half-dozen witnesses from Nevada, the discussion June 13 was focused on a proposal brought by the state's Legislative Committee on Public Lands. To the extent that this group represents the state, Nevada is requesting an Act of Congress to sell to the state all of the alternate sections still held by the federal government in the "checkerboarded" strip created by the 19th century grant to the Central Pacific Railroad. This particular grant area, across northern Nevada, was 40 miles wide. It still contains, in the federal sections, some 3.5 million acres, according to the draft bill proposed by the Nevada group. However, in his testimony, Assistant Director Frank Edwards of the Bureau of Land

Management said the remaining federal total in the checkerboarded strip is approximately 2.9 million acres. Whatever the correct acreage, the draft bill which the Nevada group wants Congress to consider would direct the Secretary of the Interior to sell these lands to the State for $2.50 per acre, plus an amount equal to the fair market value of any improvements on the lands, while reserving all mineral rights to the United States. The draft asserts that $2.50 per acre is the "fair market value" and the State's witnesses repeated that assertion.

The Natural Resources Defense Council strongly objects to the proposal for three reasons.

First, it would amount to a colossal give-away of national assets -- the land and all its resources except minerals -- that belong to all the people of the United States. My advisors in Nevada tell me that the true fair market value would range at present from $75 to $125 per acre on the areas used chiefly for grazing up to $2,000 per acre near towns.

Should Congress give this land outright to the state, as in the case of the original statehood grant, the receipts from resale, grazing leases and other paid uses, would, under Nevada's constitution, have to be used only in support of public education. But the proponents want to "buy" the land from the federal government so the money can be used for other purposes. I suppose they hit upon $2.50 per acre as the lowest price they could propose with a straight face.

Our second strong objection is that it would set aside -- by-pass -- ignore -- the principle written into the Federal Land

Policy and Management Act (FLPMA) that the BLM lands may be disposed of only after, and as a result of, the land-use planning process spelled out in Section 202 of FLPMA. Among the criteria which the Act in Section 203 says must be met is that "disposal of such tract will serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public values, including but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership."

BLM has been proceeding with the FLPMA planning process, District by District, resource area by resource area, in Nevada as in other states. The status of planning for the areas that include the checkerboarded lands is this:

In the Elko District, the Resource Management Plan (RMP) is nearly completed for the Wells Resource Area. For the Elko Resource Area, the process is just beginning. It is now in the scoping stage, and will require two more years for completion.

Battle Mountain District. The Shoshone-Eureka RMP is in draft form for public comment. It should be completed in 1984.

Winnemucka District. RMPs completed for the two Resource areas.

Carson City District. BLM expects to have the Lahontan RMP finished in fiscal 1984.

Another important principle written into FLPMA by Congress is that BLM shall involve the public in its planning process. It appears in the very first line of Section 202. In the Nevada

RMPs completed or far advanced to date, public input has been active and extensive and it has resulted in decisions that most of the federal land should be retained; some of it in the checkerboarded strip is so valuable for public purposes that it should be blocked up through exchange or acquisition of the privately-held sections; and some could well be disposed of.

However, in FLPMA, Section 203(d), Congress decreed flatly that: "Sales of public lands shall be made at a price not less than their fair market value as determined by the Secretary."

To give away this land, as the Nevada group wants Congress to do, would not be fair to the taxpayers of the United States, the people who own the public lands.

The third reason why we must oppose the give-away is the high uncertainty that would result for the scenic, recreational and wildlife values of the lands and for public access to make use of such values. Obviously the proponents want to sell the lands for revenue purposes. The state may retain scenic or conservation easements but the draft bill does not propose a guarantee of access when the lands are conveyed to private owners. Even holders of mining claims could not be guaranteed sites for processing facilities. It is not surprising that Nevada mining interests are said to be "very skeptical" of the scheme. They should be.

We recommend that neither this subcommittee nor the full committee give favorable consideration to the proposal.

Charles H. Callison

June 20, 1984

Senator HECHT. I am advised that the BLM planning process is to be completed by 1986.

Mr. CALLISON. Well, they are scheduled for completing their RMT's. That is their objective in the State of Nevada, but that is something I also would like to check on carefully.

I discussed this in a preliminary way only yesterday with some of the BLM planning people, people in their planning division.

Senator HECHT. Mr. Terry Sopher, Wilderness Society, Washington, DC.

STATEMENT OF TERRY SOPHER, WILDERNESS SOCIETY, WASHINGTON, DC

Mr. SOPHER. Thank you, Mr. Chairman. We appreciate the opportunity to appear before you this morning, and the opportunity to offer some comments on this proposal. I would like to submit additional written comments for the record.

We oppose this proposal as we understand it. I haven't reviewed the material submitted by the State, Mr. Chairman. We oppose it because it is contrary to the sound principles established by Congress in 1976 with the enactment of the Federal Land Policy and Management Act with regard to management of the lands administered by the Bureau of Land Management.

As you know, Congress deliberated for about 15 years before enacting the Federal Land Policy and Management Act, Mr. Chairman. This committee played a central role in that entire deliberation process. FLPMA established, as Charlie Callison indicated, some very basic principles for managing the BLM lands, and some very specific principles with regard to disposal of many of those lands.

The general policy established by FLPMA is a very important one. It said that these lands should be retained in perpetuity in Federal ownership with few exceptions, and the reason that Congress came to that conclusion after 15 years of deliberation about the future of the BLM lands was because they had concluded that those lands were of immense value to the American people retained in Federal ownership, immensely valuable both in terms of commodity values such as minerals and timber, grazing lands, but also rich in terms of noncommodity values—wildlife, recreational land, scientific values, water, clean air, and so forth.

The second principle that FLPMA enunciated was that the only circumstance under which a parcel of BLM land, and I emphasize a parcel, should be disposed of was when two general conditions had been met—first of all, that the land had gone through a comprehensive land use planning process which was laid out in great detail in FLPMA as you know, and then it said the second condition was that after that comprehensive land use planning process, the land could be, the parcel could be considered for disposal if in general there was no Federal public interest in retaining that parcel, and that was expressed in three different criteria in the law.

To have legislation that would provide for the disposal of this massive quantity of BLM land would violate those basic principles. It would violate them further in that FLPMA established that any

land that was to be disposed of through sale—and that is not the only means of disposal, of course—any land to be disposed of through sale must be at fair market value with only some extraordinary exceptions to that fair market value, so as we understand the proposal and the materials submitted to the committee by the State, it would violate all of those principles. The principles that Congress established were sound. They were the result of many years of deliberation, and they should not be violated in this manner.

I would like to say further that again in the short time available before the hearing this morning I wasn't able to get all the facts I would have liked to, but I do understand that at least one resource management plan that affects the checkerboard land has been completed, and that is for the Wells resource area, and this plan was completed, finalized in January of this year.

I think it is instructive, for instance, to look at what the BLM's recommendation was in this final plan. In the Wells resource area in the checkerboard lands, they recommended and plan to implement in the coming period that 81,000 acres of checkerboard be disposed of outside, primarily through sale, at fair market value.

Second, they recommended that about 350,000 acres of the checkerboard land that BLM holds be retained for consolidation purposes. I would like to explain what this means. Retained for consolidation purposes means that BLM would look at those parcels so identified and use them to effect exchanges with the private landholders in the checkerboard areas so that the land management patterns could be consolidated and made more rational.

Now I should say that it is the basic premise implicit in FLPMA that it is in the public interest for BLM's land areas to be consolidated into more rational land-use patterns, and certainly when the land pattern is consolidated, that benefits the private and State owners as well, so I think this is an example—you indicated that the other plans are in process and various ones will be completed in final by 1986.

I think it is instructive that we see that the FLPMA process is proceeding. The FLPMA process has the capability to solve problems where there are problems.

I would like to also say that the Wells resource management plan demonstrates that another important part of FLPMA is involved here. The checkerboard lands which BLM administers in Nevada do have very important multiple-use values. Some of the lands are important wildlife habitats. They are important for other resource purposes. These things need to be fully examined before a decision is made that the lands should be disposed of.

Another example that demonstrates that the FLPMA process can work is in the State of Arizona. The State of Arizona has been working in a very positive and productive manner with the BLM, and over the past couple of years they have exchanged either in surface ownership or subsurface ownership so-called split estate, over several hundred thousands of acres, and again I apologize for not being able to be more precise. I wasn't able to get the figures in the short time available before the hearing.

I would like to address some other matters. Senator Glaser stated that Congress did not intend the Federal Government to keep the

checkerboard lands. I would suggest that this issue was resolved in 1976 with the passage of the FLPMA. Again, I indicated Congress said very clearly in FLPMA that BLM lands in general should be retained in Federal ownership.

Second, there was an implicit reflection that somehow Nevada was unfairly treated with regard to Federal lands in the State. I would suggest that Nevada has been just as fairly treated as every other State that came into the Union. As you know, Nevada did receive State sections when it entered the Union, and in its judgment decided the best thing for the future of the State was to sell those parcels which they did.

I should also point out Nevada receives payments in lieu of taxes and receipts for mineral development on the Federal lands. It is unfortunate that the Interior Department did not have the specific information about receipts that Nevada gets from these public lands.

The Nevada Legislature in passing its resolution on these checkerboard lands unfortunately made a serious mistake. The resolution states that BLM designated these checkerboard lands for eventual disposal. That is incorrect. These lands have never been designated for disposal. In fact what they were referring to was that during the so-called privatization program that Mr. Watt initiated at the Department of the Interior, various BLM State offices were directed by OMB and the Department of the Interior in Washington to identify lands that potentially they could examine for potential disposal. The checkerboard swatch in Nevada was so identified by the Nevada State office, but that is a very important distinction from saying that BLM already identified those lands for disposal. They said they should be reviewed as is being done in the Wells resource management plan and the other plan processes.

I would also like to point out that it is very surprising at how uninformative the Interior Department's testimony was this morning. At a minimum I would have expected that the Interior Department was able to inform the committee of all of the important public land values that are in these areas which areas have important wildlife values, especially in the case where the land use plan has already been completed. Unfortunately, we didn't receive any such information.

I am also surprised that at a minimum the administration in their testimony this morning didn't condemn this proposal from at least the standpoint of loss of Federal revenues.

When the administration proposed several years ago the so-called privatization program, selling massive quantities of public lands, primarily BLM lands, the justification for that program offered at the time was that the Federal deficit needed to be reduced through every means possible, and the major justification for the privatization program was the generation of revenues for the Federal coffers, so I am surprised that they wouldn't reflect that concern here this morning since these lands would not be offered for sale at fair market value, and I have to say finally that it is implicit in this proposal that the discredited Sage Brush Rebellion myths are present, the myth that the public lands are not worthy of retention, that there are not important national values on those lands, and the myth that the States were not fairly treated when they en-

tered the Union and somehow that they deserve these public lands more than the American people do.

Those myths were rejected several years ago when the Sage Brush Rebellion was at its peak, and they should be just as strongly rejected now.

We are not opposing the idea of making railroad crossings safe. Obviously no one would do that, but Mr. Chairman, there are numerous public health and safety problems as severe or more severe than this one, many more deaths and serious injuries in the United States from unsafe highways than there are from railroad crossings.

If we set a precedent of selling our limited public land resources, our limited natural resource heritage that all of the American people have a stake in for such purposes, where will it stop? Will someone next propose that we sell the public lands in some other State to repair potholes in the highway system?

I would just urge that we not sell these limited public lands to solve such problems that can be solved through other means. Instead we should look at things like block grant programs from the Department of Transportation so that the States can have a funding source to resolve such problems.

Senator HECHT. Mr. Sopher, I represent a State that has 87 percent of its land owned by the Federal Government. Do you feel that your remark about in perpetuity is justified? Would you address that, Mr. Sopher?

Mr. SOPHER. Yes, Mr. Chairman. The FLPMA provides for continuation of so-called recreation and public purposes transfers when State or local government demonstrate legitimate public need—community expansion, parks, and so forth, for public land, and FLPMA has a process that allows such transfers to be made, in some cases at an extremely low price, extremely long-term, cheap rentals or free of charge.

Senator HECHT. In other words—but when you mentioned before this land should be in perpetuity, I cannot see how this could be justified with a State like Nevada which is the fastest growing State in the Nation.

How can we say in Nevada it is right to keep 87 percent of the land in Federal ownership when the East is absolutely not that way?

Mr. SOPHER. Well, Mr. Chairman, I would just suggest again that FLPMA creates the processes to soundly and fully examine such needs and to set up a planning process to fully consider all the full range of public land values on these lands, and under that process I think there is the potential for any legitimate needs to be met.

In the future when these land use plans are completed, and it is available to everyone to consider what the full range of public land values are in the public land and how significant they are, then that may provide the basis if there is a legitimate need to determine that some bigger transfer needs to take place, but at the present time we don't see that need demonstrated, and the FLPMA process has not gone forward far enough to demonstrate that there are insignificant public land values on large acreage.

Senator HECHT. As I alluded to Senator Bilbray before, Howard Hughes bought from the Government some land and exchanged

land in Nevada right at Las Vegas. At the present time, some of the land is now selling for a $100,000 an acre that he paid $2.50. However, it is many, many sections, and it is going to provide housing for thousands of people and this money from the housing would be in land values. They will be paying taxes to the schools, to the counties.

Do you think this process is really bad?

Mr. SOPHER. I didn't say that the process in general is bad, Senator. What I said is that I thought the FLPMA process provided the framework to make fair, sound resolution of these issues.

Senator HECHT. In northern Nevada we are having a population explosion similar percentagewise to southern Nevada. Much of this land can be put into homes, too, and I think it is the feeling of the Nevada delegation that we have to expedite the process.

Do you feel this is wrong?

Mr. SOPHER. The Wells resource management plan which was adopted in January of this year, as I indicated, is one example that identified 80-some thousand acres as appropriate for disposal at fair market value.

It is my understanding from a quick review of the plan that much of that land that is proposed for disposal is for community expansion. I think these needs are being met where there is a legitimate need demonstrated.

Senator HECHT. But under the proposal of the Nevada delegation, this land would be administered by the State. Fair market value means it goes to the highest bidder which could conceivably not be in the best interests of the State.

Would you address that?

Mr. SOPHER. I guess I don't understand the question. How would it not be in the best interests of the State?

Senator HECHT. Well, such as in the Midwest, much of the valuable farmland has been bought up by foreigners who have done nothing with the land.

Mr. SOPHER. Well, Senator, all I can say is that I believe you are a strong supporter of the operation of the marketplace, and offering land for sale to the highest bidder is the operation of the marketplace.

Senator HECHT. But also we represent a State, we try and work in the best interests of the State. That is always of paramount importance, and sometimes fair market value is not to the best interests of the State. That is what I wish you would address.

Do you feel that it is always fair market value or don't you think the State's interests should also be taken into consideration?

Mr. SOPHER. My responsibilities take into consideration the public land interest involved here. As I indicated, we support the principles set forth in FLPMA. They provide a sound process for addressing these issues, and they provide sound principles for protecting the interests of the entire American population.

Senator HECHT. But don't you think that the State takes into account the public interest?

Mr. SOPHER. I am not a resident of the State, Senator.

Senator HECHT. Don't you think the Government, the people, our people can actually speak out in their own State in the best public interest?

Mr. SOPHER. Well, I assume so, but in this case, the proposal is that the Federal Government give up this land at less than fair market value to the State.

Senator HECHT. This is not unprecedented.

Mr. SOPHER. No, it is not unprecedented, but as I indicated, our belief is that the most effective and sound way to resolve such issues is consistent with the principles set forth in FLPMA.

Senator HECHT. I want to thank you all today for attending, and as I mentioned before, the record will be kept open for 2 weeks. Any questions can be submitted.

I thank you for your brevity. We in Nevada demonstrated we can get the job done in less time than allocated to us and all of you will now be able to catch your plane.

The meeting is adjourned.

[Whereupon, at 9:22 a.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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RESULTS AND ANALYSIS

OF THE

CHECKERBOARD LAND

PUBLIC OPINION SURVEY

March 20, 1984

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RESULTS AND ANALYSIS OF THE

CHECKERBOARD LAND PUBLIC OPINION SURVEY

The purpose of this report is to summarize the results of a public opinion survey regarding proposed congressional legislation authorizing the transfer of public lands in the "checkerboard" area of Nevada from federal to state ownership. Some of the transferred lands would subsequently be sold to private parties in order to finance the elimination of at-grade railroad crossings. The opinion survey was conducted by Consensus, Inc., for the Committee on Public Lands of the Nevada State Legislature. Section I of this report summarizes this history behind the bill and Section II describes the survey process. In the next section, the survey results are presented and analyzed. Finally, Consensus identifies the major questions that must still be answered before Nevadans could reach a consensus on the proposed checkerboard legislation.

I. SJR 14 and the History of the Proposed Draft Congressional Bill

SJR 14, passed by the 1983 Nevada Legislature, calls for the introduction in Congress of a bill known as the "Proposed Bill to Provide for the Orderly Disposal of Public Lands in the 'Checkerboard' Area of Northern Nevada." As designed, the proposed legislation directs the federal government to sell to the State of Nevada all of the unreserved, BLM-managed checkerboard lands within the state for $2.50 an acre. In turn, the state would sell some of the lands to private interests and individuals in order to generate funds to pay for eliminating or upgrading priority railroad grade crossings.

Responsibility for drafting such a proposed bill fell to the Legislature's Public Lands Committee in conjunction with the Legislative Counsel Bureau. This committee began discussing the proposed draft bill during the summer of 1983. Members of the committee listened to presentations by numerous user and interest groups. After a lengthy hearing and finding many unresolved issues, the Public Lands Committee appointed a subcommittee consisting of representatives from the various groups which had raised the issues and questions. The committee suggested that the subcommittee study the proposed bill and return it with recommended changes which would make it more acceptable. The goal was to achieve a consensus agreement which would give the committee a more universally accepted proposal to present to Nevada's congressional delegation for introduction to Congress.

Participants at two subcommittee meetings identified additional issues but did not reach any united recommendations. Several interests represented asked for more assurances that their concerns would be addressed more specifically in the bill. The legislative counsel to the Public Lands Committee redrafted the bill to accommodate some of the subcommittee's concerns and suggested language.

The draft was presented to the full committee and the public at the committee's November 4, 1983, meeting; however, several groups still had serious concerns about the bill and its potential impacts, particularly on the mining industry, the utilities and the environment.

After receiving the subcommittee's report, the Public Lands Committee listened to a proposal from Consensus, Inc., a nonprofit group established for the purposes of mediating and facilitating resolution of community, land use, and environmental disputes. Consensus proposed a process to facilitate resolution of the differences among the interest and user groups. All of the parties on the subcommittee, plus additional interest groups that had not been included, were to participate. Originally, Consensus was to assist the groups to develop consensus language for the bill. Funding for this project was to come from the committee as well as Nevada's Checkerboard Land for Public Safety, Inc., the chief proponent of the bill, and other participating parties. The proponent corporation was unable to respond with its share of funding, so the facilitation/mediation effort was scaled down to a survey of interest group attitudes towards the proposed legislation and issues developed in the subcommittee.

Prior to Consensus' study, the bill was redrafted again to incorporate further changes adopted by the Public Lands Committee. The new draft dated January 4, 1984 became the proposed legislation which Consensus' study survey addressed. According to Consensus' standing policy of impartiality, the survey was developed to be as unbiased as possible. Consensus compiled the mailing list with the assistance of the Legislative Counsel Bureau.

Next, the Legislative Counsel Bureau mailed out the revised January 4, 1984, version of the legislation and a cover letter introducing Consensus. Shortly thereafter, Consensus mailed out the survey. All persons who had not responded by the deadline of February 14, 1984, were called by Consensus' staff to request that their group or corporation respond. Once most of the surveys were received, Consensus tallied and analyzed the surveys. The results were reported verbally to the Public Lands Committee at their March 5, 1984, meeting and are summarized in this written report.

II. The Survey Process

A. Goals of Consensus

Prior to the Public Lands Committee discussion of checkerboard lands, Consensus had been approached by Mark Chilton of Nevada's Checkerboard Land for Public Safety, Inc. His group had wanted to discuss potential conflicts and issues with environmental

groups and to resolve those issues before the proposed bill was introduced. Mr. Chilton asked if Consensus would act as a facilitator for a meeting. With Consensus acting as a go-between, both groups determined that there was a basis for a meeting. The results of those meetings were agreements upon a list of issues for further discussion and resolution and who should be represented in expanded negotiations. This list of issues and representatives found its way to the Legislative Counsel Bureau and hence to the Public Lands Committee and subcommittee. (See Appendix I.)

Consensus' original goal was to mediate a negotiated settlement on the proposed legislation, but funding to do so was inadequate. Consequently, the goals had to be shifted. The Public Lands Committee approved a scope of work calling for any additional issues to be identified, interest group attitudes and viewpoints to be defined, and agreements and differences to be outlined. To complete this scope of work, Consensus began designing the specifications for the twelve page questionnaire/survey and the survey process.

The survey specifications were: 1) Consensus must continue to act as an impartial "third party" to facilitate response, but not advocate any position, 2) Interest group attitudes were to be drawn out without limiting or directing responses, 3) The surveys should be distributed equitably among the interest/user groups., and 4) the committee wanted to maximize the number of public user/interest groups responding in order to increase the committee's understanding of the attitudes and the potential conflicts associated with the checkerboard legislation. The survey and mailing list were designed to meet these specifications.

B. The Process

The survey process was divided into eight stages:

1) Identification of user/interest groups and compilation of mailing list
2) Questionnaire/survey development
3) Pre-testing
4) Dispersal of surveys
5) Follow-up calls to stimulate response
6) Follow-up calls to respondents who made requests to Consensus for further discussion
7) Review of respondents and non-respondents
8) Tally and interpretation

1) Mailing list: With the help of the Legislative Counsel Bureau, Division of State Parks, Agricultural Extension Service, the Bureau of Land Management and the Checkerboard Subcommittee, Consensus built a list of sixty potentially interested parties. Members of the subcommittee were included, as were the affected state

agencies. The mailing list also included Indian tribes, realtors, appraisers, gem and mineral clubs (rockhounds), ORV groups, environmental and conservation organizations, sportsmen and wildlife associations, an historic trail marking group, archeologists, mineral and geothermal industries, utilities, agricultural interests, the railroad, Nevada's Checkerboard Land for Public Safety, Inc., and individuals known to have an interest in the proposal or who asked to be included. The list was to be balanced and diverse. Needless to say, the list may not be totally representative nor proportionate to the actual population interests; however, every effort was made to include as many groups as possible.

2) Questionnaire/survey development: Consensus designed the questionnaire/survey to be as simple, but complete as necessary to cover the issues. People tend not to respond if the survey is too long or complicated. In the case of checkerboard lands and this proposed bill, however, many issues needed definition. Therefore, the survey length exceeded the normal boundaries.

An effort was made to elicit trends as well as specifics on the key questions such as whether the land should be transferred, the timing and phasing of transfers, the purposes for which derived funds should be used, and who should make the decisions and when. Some land management and financial questions were designed to be educational in addition to eliciting attitudinal responses.

The trends and detailed results which became evident during the tally met the questionnaire's objectives. The response rate of 45% was good, considering the questionnaire's length and complexity, and was attributable to a combination of things: 1) the expressed desire by the committee for participants to respond; 2) the interest and desire of groups and individuals to respond; 3) the survey itself; and 4) Consensus' follow-up.

3) Pre-testing: Consensus asked two people to respond to the survey prior to mailing the survey to the full list of participants. The object of pre-testing is to make sure the questions are worded correctly and are unbiased, and to calculate the time needed to complete the survey. Consensus made numerous minor wording adjustments and added several alternative responses before the surveys were mailed.

4) Mailing: The Legislative Counsel Bureau dispersed copies of the proposed draft legislation to the parties on the mailing list in mid-January. A cover letter introducing Consensus and the survey accompanied the legislation. Consensus followed by sending out the survey in early February with a response deadline of February 14, 1984.

5) Follow-up: Consensus phoned those parties who had not responded by February 14 in order to stimulate and maximize the response rate. The 45% response rate is good and falls into the national average of a 40 to 50% response rate with follow-up.

6) Respondent follow-up: A respondent could request further discussion with Consensus about the survey. Six respondents made that request, and Consensus phoned those people for elaboration or clarification. Their comments were incorporated into this report.

7) Respondents and non-respondents: All sixty surveys, with one exception, were mailed within the state. The exception was a major geothermal exploration and development company with headquarters in California, and which is active in Nevada. The results of the survey netted 27 responses*, one of those unsolicited. There seemed to be a feeling among the miners that this was a popularity poll. It was not. Consequently, mineral interests are well represented in the tally.

The responsive constituent groups and individuals, as well as number of replies from each group, are as follows: (Also see Table 5.)

Constituent Group	Number of Respondents
Counties & Cities	3 (4)**
Environmental Groups	3
Historic Preservation Groups	1
Individuals	1
Mining Industry	5 (6)**
Nevada's Checkerboard Land for Public safety	2
Ranching and Agriculture	3 (4)**
Sportsmen and Wildlife	4
Transportation	1
Utilities	1
Anonymous	3

Those not responding include Indian tribes, realtors, appraisers, 5 of 8 counties, off-road vehicle enthusiasts*, wild horse groups, rockhounds, railroads, several state agencies, some agricultural interests, and the Nevada Mining Association, which felt it had sufficiently commented during committee and subcommittee meetings.

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* One additional survey was received too late to be included in the tally.

**One survey sent to a county was returned with responses representing the county, the mining industry, and ranching. There are several ways to portray that split tally, but Consensus has chosen to allocate that survey among the constituent groups as far as representation, but that survey was only tallied once for attitudes. The parentheses contain totals which include this split survey.

8) Tally and Interpretation: Answers to the survey were tallied and in some cases, cross-tabulated for better analysis. In most instances,, the analysis was straight forward, because the answers related directly to some specific issue. For example, Question 27 asks whether all, some or none of the net proceeds from land sales by the state should go to upgrade or eliminate railroad crossings. In other instances, like Questions 46 and 48, the tally required cross-tabulation of the two questions to evaluate the responses. Cross-tabulating Questions 46 and 48 revealed how the degree of a group's support or opposition for the bill correlated with how much revision they perceived to be necessary to make the proposes legislation acceptable to their group.

It was interesting to compare in a cross-tabulation of Question 45 on timing of decisions and Question 46 on support of the bill, the responses of people opposing and supporting the bill. There was no significant difference between people opposing or supporting the proposed legislation in their preferences for federal or state level decision making on any particular issue. In other words, the opposition agreed with the supporters on timing of decisions.

One should also note that the various major constituency groups responded with both opposition and support except for utilities; in their one response they indicated they could support the proposal with minor revisions to protect third party rights-of-way.

As explained in the footnote, one should pay attention to the fact that one survey received from a county also represented agricultural and mining in the county. While they were undecided about support or opposition, they were counted in the cross-tabulation of constituencies/support three times--once as a county, once as mining and once as agriculture, otherwise the survey was treated as one county vote.

In reviewing the actual tally numbers, strong trends indicate the attitude direction of the majority of respondents. Where the numbers are closer together, one can assume split opinions and more opposition on an issue. This means the committee might want to spend more time and research on the issue in order to work out the differences. The differences may show up as opposition to the proposed legislation from major national national organizations as well as from grass roots groups within the state. Support from Nevada's congressional delegation and Congress will be strongest if the proposed checkerboard land sales proposal receives unified support rather than splintered opposition.

A warning must be issued about relying too blindly on the survey. The surveys were mailed to representatives of groups determined to have potential or known interests in public land issues. Even

though a particular proposal has the support of the majority of respondents, non-respondents or a vocal minority may still present vigorous opposition to the bill based on a single issue or several issues. Furthermore, the response from an organization may not represent all of its membership. More research and dialogue is definitely called for on issues with even limited but strong opposition or where opinion was split. Otherwise unanticipated opposition may surface when the bill is introduced in Congress.

In summary, the survey development and analysis process was conducted according to professional standards and quite thorough in the short time frame allowed for completion. The results offer further definition and direction on the issues and conflicts which were identified in committee and subcommittee meetings. In addition the results also indicate what more research and alternatives as well as changes are needed for more unified support of the bill.

III. Results and Analysis of the Survey Responses

This section delineates the most meaningful results of analyzing the checkerboard land opinion survey. Interested readers may refer to the completed survey and tallied responses in the Appendix. The first of several questions were introductory in nature. According to their answers, all of the respondents were familiar with checkerboard lands, and most of them knew about the Public Land Committee's proposed legislation before the committee sent out the draft bill.

A. Need for Changes in Checkerboard Management

One of the most significant survey results was that most respondents agreed that some action was necessary to help resolve existing checkerboard land management problems; only 2 people disagreed. Their major objections to the transfer to state or private ownership from federal ownership were beliefs that the "present land management system is working reasonably well," and that the state does not have the ability to manage the lands, as well as a fear that the lands would be sold off to special interests and, eventually, no longer open to public access and multiple use. Support for some type of checkerboard related action was also demonstrated by the strong agreement two purposes of the proposed legislation: 1) to correct a situation where checkerboard lands are either difficult or economically inefficient to manage, and 2) to consolidate, block up, exchange, or set aside lands for their best uses.

Another theme which seemed to pervade the survey answers was that the respondents expected the mixture of land uses to remain about the same. The respondents also showed interest in the federal or

state government retaining land for certain public purposes. As shown in Table 1, a combined tally of Questions 6 and 7 on federal and state retention of land, most respondents wanted some of the lands to be retained in public ownership at either the state or federal level. Of those favoring public ownership, most favored either state ownership or had no preference between the federal government and the state. The only land uses receiving a preference by some respondents for only federal retention were minerals, wildlife refuges, historic preservation and livestock grazing; these respondents were in the minority with the exception of minerals. In that category, no clear preference was shown between federal and state ownership.

Significantly, 24 of the 27 respondents desired the active pursuit of land exchanges to form compact units of common land ownership for manageability. Their opinions were split on which stage of the land transfer process was most appropriate to implement exchanges.

B. Easements and Split Property Rights

Easements and split property rights were strongly supported by the respondents, but opinion was divided 50--50 over whether or not to grant any purchasers a preference over other potential purchasers. Most respondents (24 of 27) favored maintaining easements for public access on lands sold to private owners. To a lesser degree, they supported easements for other current uses such as hunting and fishing, utility rights-of-way, wildlife habitat, recreation, and minerals exploration and development. If purchaser preferences are given, the only three categories receiving strong support by the most respondents were the state, counties and cities. The next group receiving moderate or strong support from most participants were mining claim holders, adjacent property owners, grazing permitees, and the highest bidder. Moderate support for a preference went to historic preservation groups, communication sites and Nevadans.

C. Financial Considerations

The purchase price of $2.50 per acre for initial land acquisitions by the state was viewed as about right or too low by most respondents. No one saw the price as too high. Some lands are already available at no cost under the Recreation and Public Purposes Act (R&PP) for uses open to the general public such as municipal facilities, parks, damsites, and shooting ranges. All of those with an opinion except one support acquiring these lands. Some also preferred incorporating the R&PP land transfers into the checkerboard legislation, whether or not the state would have to purchase these parcels.

No clear direction emerged on how to finance initial land acquisition. Some people wanted the state legislature to appropriate funds up front. Others wanted the state to pay for the lands with

Table 1.
Partial Cross-tabulation of Questions #6 and #7 Related to Phasing.

Uses*	Federal Retention	Checked Both State and Federal	State Retention
Minerals	5	3	3
Parks & Recreation	0	17	4
Wildlife Refuges	2	10	8
Wildlife Habitat	0	9	9
Biologically Sensitive lands	0	11	4
Greenbelt	0	9	4
Historical/ Archeological sites	2	13	2
Livestock	1	5	4

* The list is incomplete because there were several other non-corresponding uses which cannot be compared.

Table 2.
Cross-tabulation of Questions #12 and #20

Response to ? #12-- Phasing land transfers from federal to state		Support	Oppose	No Opinion	No Response
Response to ? 20--Phasing sales by state to private sector	Support	11	2	1	2
	Oppose	0	3	0	0
	No Opinion	0	1	6	0
	No Response	0	1	0	0

the proceeds from the land sales. Responses were also split over whether the transfer of the land from the federal government to the state should be phased. More interest was shown in phasing land sales by the state. All of those respondents who favored phasing transfers to the state also favored phasing the land sales to private ownership. (See Table 2.) Similarly, those who did not favor phasing sales, also did not support phasing transfers from the federal government.

The participants, as a group, did not have a clear preference between appraisals and competitive bidding as the method used to determine the selling price. Most of the respondents support dropping the purchase price to reflect the devaluation associated with easements for public access and usage. Competitive bidding would be compatible according to most of those replying, and would cause an automatic price adjustment for easements.

Financing for land purchasers is a question that will have to be investigated further. While no method was definitely preferred over others, it appears that those answering wanted some sort of long term time payment plan, and that they did not want land prices discounted except for public purposes. Only 30% of the respondents thought certain parties should receive financial assistance to enable them to purchase the land. Cities and counties were listed most often as the appropriate qualifiers for financial assistance.

About half the respondents indicated that restrictions should be placed on windfall profits. These restrictions should last anywhere from 5 years to infinity; the median period listed was 10 years. Half of the respondents also wanted limits on the total amount of land one person, family, partnership or corporation should be allowed to purchase. There was some concern that large agri-business corporations may possibly force out the smaller ranchers currently operating in the state.

D. Use of Net Proceeds

One of the clearest trends emerging from the survey was that all but two of those participating wanted some or all of the funds generated from land sales used for public purposes besides eliminating railroad grade crossings. Named most often as alternative uses for the proceeds were the state land administration costs related to the land transfers and subsequent disposal, environmental and cultural assessments, the state's future management costs for lands retained by the state, and the schools. Some of those mentioning schools indicated a preference for the community colleges and universities or pointed out that land grants in other states were used to finance public schools.

Most of those with a preference wanted the state to decide where the revenue will be spent, but wanted the federal legislation to designate the eligible revenue expenditures chosen by the state. Perhaps the 1985 legislature could take action on this issue before Congress passes the finalized legislation.

E. State and Local Revenues

Questions on state management costs revealed some confusion over who is now responsible and who should become responsible for fire protection and liability if the checkerboard legislation passes. For lands retained by the state, most felt that responsibility for fire protection should fall to the Nevada Division of Forestry or a combination of Forestry and the counties. No clear assignment of responsibility was determined for fire protection on lands sold into private ownership; however, counties may have to share the burden for increased fire protection facilities and personnel. Respondents decided that on state retained lands, liability should rest with the state.

Management expenses for retained lands should be derived from user fees, allocations by the state legislature, and proceeds netted from land sales. The acceptance of user fees is somewhat surprising in a state like Nevada where uses other than grazing, hunting mining claims and leases are free.

While payments-in-lieu-taxes (PILT's) are unpredictable revenue sources depending on the whims of Congress, they, nevertheless, offset some of the potential revenues which might be derived from private property taxes. Presuming the state will not retain much land, most respondents felt the replacement of PILT's by private property taxes was desirable or didn't matter. However, if the state retains the majority of the land for grazing, mining or other public purposes, the counties will have neither PILT nor property tax income. Some provision for either event needs consideration.

F. Environmental and Cultural Assessments

Small majorities wanted environmental and cultural assessments done. When asked specifically whether they wanted the federal level or the state level to do the assessments, respondents were divided as to who should conduct the assessments and who should pay the costs, and whether the state had the capacity, experience or fairness to do either type of assessment work.

G. Specific Users Affected

Regarding an historic emigrant trail paralleling the Humboldt River, a majority indicated their preference for a public access easement. Types of traffic permitted, if the trail is established, should include horses, hikers, and wagons, apparently to re-create the essence of the emigrant experience. Some respondents felt it would be an excellent focus for tourism development.

H. Mining

Mining is perhaps the most hotly contested issue associated with this proposed legislation. The survey respondents gave no clear guidance on the proposed checkerboard legislation. Some supported it; some were opposed. Some opposed any transfer that did not reserve the mineral rights and access to explore and develop those mineral rights. In some cases, the miners preferred that the federal government retain all lands with mining claims or leases to avoid split estate problems. Other miners supported the legislation if mining rights were maintained by either the state or federal government if limits were set on the maximum acreage any one individual or corporation could buy, and if the land sales would generate income for the universities and community colleges instead of the railroads.

Perhaps this conflicting guidance is appropriate. The checkerboard legislation's impacts on mining are extremely complex legally and logistically. Considerable research will be required to determine the most likely impacts and to develop solutions acceptable to the mining industry and the prospective land purchasers.

An initial step that would probably receive support from most mining and non-mining interests would be to reserve the minerals to the federal government. Additionally, the mining community has stressed maintaining the spirit of the federal 1872 mining law. Beyond these initial steps, preserving mineral rights is more complicated.

Issues that were repeatedly designated as important include: 1) continued access for exploration, staking, and development of mining and mill site claims; 2) avoiding the complications of split estate ownership; 3) using the prudent man theory to conduct any mining claim evaluations, and 4) assuring a mining purchaser preference or federal land retention for lands with mining claims.

The outstanding questions are numerous and can be resolved only after careful evaluation and negotiation with other public land users acceptable resolution prior to passage of congressional legislation will be necessary to seek the support of the Nevada Mining Association and many other mining groups and corporations. The Appendix contains 16 letters from mining corporations or their attorneys detailing their concerns and objections to the proposed checkerboard bill. Two Nevada mining attorneys, Earl Hill and John Miller, recommend in their letters, extensive changes to protect mining interests. Even so, both Mr. Hill and Mr. Miller anticipate that even with these changes, the bill would still be objectionable to the mining industry.

I. Public Lands Board

The proposed legislation calls for establishing a "board" to govern the state acquired lands. Twenty-one indicated their preference for establishing a board; of these, seventeen believe that board should report to a state agency. Half the respondents wanted the

board to report to the Division of State Lands/Department of Conservation and Natural Resources; the other half thought a board reporting to either the Governor's office or the Public Lands Committee of the legislature would be appropriate. Those 6 respondents opposing a board preferred management by the voters, the counties, the legislature or the federal government.

Representation on the board received a fairly consistent tally from those responding. Respondents recommended a median board size of 9-12 members from representation classifications set by law. Each entity or group would select its own representative. Representative groups, based on the survey results, would include one for each of the following:

1) Legislature
2) Governor's office
3) Department of Wildlife
4) Department of Conservation & Natural Resources
5) Environmental groups
6) Mining industry
7) Ranching & agriculture
8) Counties
9) Cities
10) Utilities
11) Sportsmen & Wildlife
12) Historic preservation

An alternative composition of the board might give both the counties and the Department of Conservation and Natural Resources two seats each instead of one. If the board is also responsible for railroad crossings, an idea that received mixed review, utilities might be replaced by the railroads or the Department of Transportation (DOT).

Should railroad grade crossings cease to be the recipient of proceeds, the railroads/DOT should be excluded from the board. Five respondents suggested a member from the public at large. This is an unusually large unsolicited response which should be given consideration. Some small miners also wanted equal representation with the large miners. One other deduction arises from Question 41, and that is the expectation that multiple use will continue and that all public land users should be represented.

I. Timing of Decisions

Question 45 refers to the timing of decisions to implement the process and define detailed aspects of land transfers and sales. Tallies indicated that the majority of people responding to this question thought that the questions of which lands will be retained by the federal government, state purchase price for federally owned lands, and prodedures for protecting mineral rights should be determined at the federal level. All other issues could be decided at the state level either by legislation or through agency or board rule making. (See Table 3.) There were no significant differences between the answers to this question for bill supporters and opponents. Minorities remarked that 2 items, financial assistance for purchasers and the establishment of the emigrant trail easement did not need attention at either the federal or state

Table 3.

Question 45--Timing of Decisions.
(Refer to Question 45 of the Survey.)

Options	A	B	C	D	E	Combination
Question 1	13	7	0	0	2	
2	1	0	11	10	1	B&D, C&D
3	16	2	1	2	1	A&C, B&C, D&B
4	3	0	9	7	2	C&D=2, A&D
5	6	1	5	7	2	A&B, C&D
6	1	0	9	8	1	A&C, A&D, C&D
7	1	0	6	7	5	
8	1	0	9	7	2	A&D
9	3	3	5	5	3	A&D, D&B, ABD
10	1	0	5	12	2	A&D
11	2	1	2	5	2	A&C
12	4	0	7	8	2	A&C, C&D
13	4	0	11	4	1	A&C, C&D
14	2	0	15	4	1	C&D
15	2	0	14	4	1	C&D
16	2	0	13	5	1	A&C, C&D
17	1	2	7	5	4	BD, CD, AC=2
18	1	4	3	9	3	A&C
19	2	3	5	9	1	A&C, B&D
20	10	1	4	4	2	CB, BD, AC
21	1	0	14	3	3	A&C

Two did not respond.

level at this time. One respondent claimed that all issues should be decided in Congress if the bill is to succeed; otherwise, no decisions were needed.

Finally, the issue of support, neutrality and opposition and the depth of opposition became clarified through a cross-tabulation of Questions 46 and 48. (See Table 4.) Ten respondents, with 3 wanting major or minor revisions, supported or strongly supported the draft legislation; ten other respondents seeking major or minor revisions or no bill at all, opposed or strongly opposed the draft bill. Four other respondents remained neutral, non-committal, non-responsive or undecided. Combining bill supporters and opponents, ten desired some or total modification of the draft language. Assuming optimistically that the bill could be modified to the satisfaction of the bill opponents requesting major or minor revisions or a totally new bill, four of the 27 survey participants would remain totally opposed to the bill, one undecided, and two with no response. This indicates a need to further review the bill's wording for possible revisions and alternatives. However, due to the short congressional time-frame left for introduction this year, this seems unlikely to occur.

For responses about the major strengths, weaknesses and alternatives to the proposed legislation, please see the self-descriptive quotations at the end of the survey in the Appendix.

In short, much work remains before there will be a consensus bill.

Table 4.

Cross-tabulation of Support/Opposition. Questions 46 and 48.

Question 46 \ Question 48	No Answer	Minor Revisions	Major Revisions	Totally New Bill	No Bill	Support Concept	Total
Strongly support	3	0	0	0	0	0	3
Support	4	1	0	0	0	2	7
Neutral	3	0	0	1	0	0	4
Oppose	0	1	2	1	1	0	5
Strongly oppose	0	0	1	1	3	0	5
Undecided	1	0	0	0	0	0	1
No answer/Non-committal	2	0	0	0	0	0	2
TOTALS	13	2	3	3	4	2	27

Table 5.

List of Constituent Support/Opposition*
*Indicates the survey with county/mining/agriculture split.

Mining--6 respondents
Support--2
Neutral--1
Oppose-- 2
Undecided--1*

Counties & Cities--4 respondents
Support--2
Neutral--1
Undecided--1*

Utilities--1 respondent
Oppose--1 with minor revisions

Transportation--1 respondent
Neutral--1

Agriculture--4 respondents
Support--2
Neutral--1
Undecided--1*

Historic Trails--1 respondent
Support--1

Wildlife, Sportsmen, Conservation, Recreation--7 respondents
Oppose--4
Strongly oppose--3

*Incicates the survey with county/mining/agriculture split.

IV. Questions To Be Resolved in the Future page 17

The checkerboard land transfer proposal is the first proposal to so clearly focus for Nevadans the real steps required to implement a program to regain some federal lands for the state. The federal land management system is a basic tenent of life in rural Nevada. Changing that system, whether or not the results are desirable, will disrupt existing social and economic patterns. This legislation could have a significant impact on federal, state, and local government; on the economies of the counties and communities affected; and on the public lands. For instance, many people now see the differences between transferring public lands from federal to state ownership more clearly. Maintaining public access easements on all public lands turned over to private property owners receives strong support, but how will it work in reality? The answers to these questions and others are not simple and will require careful research and consideration.

As stated previously, this survey has identified some issues on which most of the respondents seem to agree and other issues where public opinion is strongly divided. Even when a majority favors one particular action, such as not providing financial assistance to prospective purchasers, the decision makers should consider the impacts on the minority, the prospective buyers unable to purchase the land without financial assistance. Therefore, the reader is cautioned not to ignore the minority opinions. Similarly critical is anticipating the effects of any preventive measures; their secondary effects may be worse than the original problem. Even so, the experience gained through resolving critical land management problems in the checkerboard area may reveal solutions that can be applicable on a larger scale to similar problems elsewhere with other public lands.

There are numerous questions and issues outstanding which should be resolved either before Congress passes the proposed checkerboard legislation or before the Nevada State Legislature adopts a state land management program. Survey respondents indicated that decisions on which lands will be retained by the federal government, the purchase price from the federal government and the procedures for protecting mining rights should all be resolved at the federal level, preferably as part of the congressional enabling legislation. Deferring resolution of the other issues to the state level would be acceptable to the majority of participants. Just as the congressional bill requires a state conducted environmental assessment, other categories of required state actions could be set forth as guarantees that the state would perform.

Primary Issues to be Resolved

This section summarizes the primary issues that, according to the survey respondents, still need to be resolved before the checkerboard land transfer proposal could be implemented. The survey

provided some tentative answers or guidance on some issues. For other issues, the disparity and strength of opinion only underscored the need for evaluation.

1. Public access and multiple use

Most survey respondents expect the transferred lands to remain in land uses similar to what already exists. Therefore, how will public access and/or multiple use be maintained? Will easements, split property rights or some other mechanism be used? Should owners of property such as private residences, industrial property, or municipal watersheds be allowed to restrict public access? What types of public uses will be allowed? Hunting and fishing? Minerals exploration and development? Off-road vehicles? Should the land owners receive notification?

2. Use of funds generated by land sales

Almost all the respondents would like some or all of the funds generated by the land sales to be used for purposes other than railroad grade crossings. In particular, they indicated a strong preference for state land transfer and management costs, the environmental and cultural assessments, and schools. The joint resolution limited the use of funds to railroad crossings. This limitation should be reconsidered.

3. Lands to be retained by the state

Specifically what types of lands does the State of Nevada intend to retain? What safeguards, if any, would prevent the state from selling state lands under special protection or management (e.g. a wildlife refuge or state park)?

4. Land exchanges

Will a land exchange process be built into the checkerboard land transfer process? What are the criteria for desirable exchanges? What is an even trade? Will exchanges be considered before or after the transfers to the state and to private parties? Will the state play a clearinghouse role?

5. Recreation and public purpose lands

There is a desire to obtain these lands from the federal government, but respondents wanted them handled differently in recognition of the Recreation and Public Purpose Act. Can these lands be obtained at no cost within the scope of the proposed checkerboard land legislation?

6. Access for mineral exploration and development

Resolving the complex legal and logistical issues necessary to protect mining interests appears to be a prerequisite for favorable congressional action. Furthermore, special federal or state legislation may be necessary to guarantee some rights. The key mining related questions include:

a. Access. Assuring access for exploration, staking, and development of new and existing mining claims is fundamental for mining support. Could eminent domain proceedings against the surface owner be avoided within the spirit of the Federal Land Policy and Management Act (FLPMA)? If so, how? Could the limits of damages due to the surface owner be spelled out in the legislation?

b. Split Estate. If the surface and mineral rights are severed, mining companies will no longer be able to patent the surface. What will be the financial and logistical impact on mineral development, especially from nuisance legal suits and eminent domain actions?

c. Mill Site Claims . If public land is no longer available for mill site claims, to what degree will minerals development be limited?

d. Mining Claim Review. How would the federal government review the status of existing mining claims prior to transferring land to Nevada? To conduct the normal BLM mining claim review prior to land disposal would be time consuming and costly. Mining interests have recommended using the prudent man theory of discovery to define a valid mining claim rather than the marketability rule of discovery. (See Februrary 3, 1984 letter from Hill, Cassas, deLipkau and Erwin in the Appendix.) Using the marketability rule of discovery would lead to declaring many otherwise valid mining claims invalid and lost.

e. Property Values. If the mineral rights, including the rights of ingress and egress, were reserved, how much would surface property values be reduced? Would sufficient revenues be generated by the land sales to justify these sales?

f. Retain lands with mining claims. If all lands with valid mining claims were retained, how many acres of land would remain available for transfer to the state?

g. Purchaser preference. What purchaser preference, if any, would mining companies have over other groups such as grazing, leaseholders and adjacent property owners?

7. Fiscal impacts on state and local government

a. Local Tax Revenues. Will the additional property tax revenues generated by the new private land equal or exceed the reduction in federal Payments-in-lieu-taxes (PILT's)? Property transferred to state ownership and not sold would be exempt from either PILT payments or property taxes. Would this create a hardship for the counties?

b. State Management Costs. What will it cost the state to manage the land transfer process? To manage the lands acquired permanently? How will these costs be funded? Will there be any offsetting revenues such as grazing fees?

c. Initial Purchase. How will the stae finance the initial purchase from the federal government? Will the purchase be phased?

8. Financing land sales

Will the state require cash sales or provide a time payment plan? If so, what would be the terms? The respondents gave no clear preference on this issue, and it could possibly be delayed to the state level.

9. Purchaser preference

Opinion was split over whether or not any potential purchasers should receive a preference. It is most likely that some individuals, or groups premise their support on receiving a preference? Who will receive preferences? Grazing permittees? Mining claim holders? Utilities? How will the various classes of purchasers be ranked? What if more than one person qualifies in the same category (e.g. an adjacent property owner)? Would the state constitution need amendments? If no preferences are granted, who would be adversely affected?

10. Checkerboard land management board

While there is strong support for the "board" reporting to a state agency, which agency remains the question. Which entities will have representation on the board? Will the entities, the Governor or the legislature appoint representatives? Should the "board" govern both the land and grade crossing elimination or should the Nevada Department of Transportation manage the railroad safety funds? When should the "board" start functioning?

11. Environmental assessment

Most respondents would like the state to conduct the environmental assessment. Others are skeptical of the state's commitment and ability to conduct an adequate environmental assessment. At present

the state has no state law defining an adequate environmental assessment and no experience completing a major environmental impact statement. What action is Nevada willing to take to establish the requirements and capability for an adequate environmental assessment? Would this action lead to requiring environmental impact assessments for other state actions?

12. Cultural assessment

Half of the participants wanted a cultural resources survey to be completed, but they were split over when and who should conduct the survey, and who should pay for it. How would the cultural survey be handled?

13. Windfall profits

About half of those replying were concerned that land purchasers may reap windfall profits. Should controls be established or should the free market system be allowed to take its course?

14. Wild horses

Although a court order now exists directing the BLM to remove all wild horses from the checkerboard lands, BLM would not retain this responsibility once the lands pass out of federal ownership. Who would assume the responsibility?

These outstanding issues are numerous, yet the decisions on each one could have a significant impact on one or more current users of the public land. While the conflicts do not seem irreconcilable, agreement can only be reached if the affected groups pool their expertise and perceptions to develop a sound and workable consensus bill.

Appendix A

PROPOSED DRAFT LEGISLATION

PROPOSED BILL TO PROVIDE FOR THE ORDERLY DISPOSAL OF PUBLIC LANDS IN THE "CHECKERBOARD" AREA OF NORTHERN NEVADA

A BILL to provide for the orderly disposal of certain federal lands in northern Nevada.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED:

Section 1. The Congress finds that:

1. In the 19th century grants of alternating sections of land were made to encourage the building of several railroads in the State of Nevada;

2. As a result, the Bureau of Land Management holds extensive lands in a "checkerboard" pattern of alternating sections of public and private land in a strip 40 miles wide across northern Nevada which comprises approximately 2,500,000 acres of the 49,000,000 acres of public domain in Nevada;

3. These unreserved and unappropriated public lands are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency;

4. It is no longer useful or necessary for the Bureau of Land Management to hold these unreserved and unappropriated public lands;

5. Grade crossings of railroads in Nevada are dangerous and are disruptive to the development of commercial, agricultural and urban interests; and

6. A project to eliminate these crossings by relocating railroads in Elko, Nevada, has been funded by the Congress and by the State of Nevada, and additional projects to eliminate grade crossings should be developed for other urban areas of the state.

Sec. 2. For the purposes of this act, the term:

1. "Affected lands" means all lands which are owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management and are located in alternating sections of public and private land in the strip of land 40 miles wide centered upon the former Central Pacific Railroad across northern Nevada, except lands:

(a) Which are held in trust for the benefit of Indians or are Indian reservations; or

(b) Which are located within congressionally authorized national parks, monuments, national forests or wildlife refuges, or which have been acquired by purchase consented to by the legislature.

2. "Secretary" means the Secretary of the Interior.

3. "State" means the State of Nevada.

Sec. 3. The Secretary shall within 12 months after the effective date of this act submit to the Congress a description of all affected lands, together with a description of any improvements located on those lands, and a list of those lands within the strip of land containing the affected lands to be ~~permanently~~ retained by the Federal Government.

Sec. 4.

1. Except as provided in subsection 2, the Secretary shall within 6 months after the requirements of section 5 have been met convey to the State all right, title and interest of the United States in and to the affected lands.

2. The Secretary shall in the patent issued to the State reserve all gas, oil, coal and other minerals.

Sec. 5. The State, as consideration for conveyance of the affected lands by the Secretary, shall:

1. Agree to pay to the United States as the land is sold by the State:

(a) The sum of $2.50 per acre; and

(b) An amount equal to the fair market value of any improvements on those lands;

2. Agree to use the net proceeds from any subsequent sale of those lands to eliminate dangerous grade crossings of railroads in the State; and

3. Establish a board to manage the affected lands and require the board, for the governance of its subsequent disposal or retention of the lands:

(a) To prepare, in cooperation with appropriate state agencies and local governments throughout northern Nevada, plans or statements of policy concerning the use of the affected lands;

(b) To receive public comment upon the various matters treated in a proposed plan or statement of policy throughout its preparation and to submit its work on each plan or statement of policy to the legislative committee on public lands of the State of Nevada for its review; and

(c) To establish a procedure for preparing detailed statements on the environmental effect of the disposal of the affected lands received by the State, which substantially conforms to that which Title 40 of the Code of Federal Regulations, parts 1502 and 1503, would require if it so disposed of the lands as a major federal action.

Sec. 6.

1. The State shall not convey any of the affected lands received unless the following requirements are met:

(a) The State shall reserve such easements and other interests as are necessary to ensure public access to federal lands and to lands which are retained by the State.

(b) The State may retain an easement for conservation, suitable to protect the availability of the land as open space and any specially desirable characteristics of that land in its natural state or sites of historical or archeological interest thereon.

2. The State may sell affected lands under modified competitive bidding or without competitive bidding to or exchange those lands with:

(a) Adjoining landowners;

(b) Holders of mining claims as of the effective date of this act under the Mining Law of 1872 (c. 152, 17 Stat. 91), as amended, of the land; and

(c) Historical users of the land.

The State may establish a system for giving priority among these classes.

Sec. 7. The property conveyed must remain subject to any encumbrances existing on the effective date of this act which are not extinguished before conveyance, including easements, servitudes, leases, rights of way and rights of mining claimants.

Sec. 8. The requirements of the National Environmental Policy Act of 1969 do not apply to the conveyance by the Secretary to the State..

Code:PBi113, 1/04/84

Appendix B

COVER LETTERS FROM THE LEGISLATURE'S PUBLIC LANDS COMMITTEE

January 17, 1984

Dear :

At its meeting of November 4, 1983, the Nevada Legislature's Committee on Public Lands took two actions regarding the resolution on "checkerboard" lands (Senate Joint Resolution No. 14 of the 62nd session, enclosed). First of all, legislative staff was directed to redraft the proposed legislation based on suggestions provided by the committee. Secondly, the committee authorized a $1,000 contract with Consensus, Incorporated, to assist in the identification of unresolved issues and alternatives based on input from the various affected interests.

A copy of the latest revision of the draft legislation is enclosed for your review. Consensus, Incorporated, will be sending you additional information and its survey so that you will be able to follow the current activities. You should keep in mind that Consensus, Incorporated, is an independent nonprofit organization which acts impartially and is neither an advocate nor opponent of the proposed legislation.

Thank you for your continued assistance and participation.

Sincerely,

Senator Norman D. Glaser
Chairman

By:

Robert E. Erickson
Staff Director

NDG/REE/11p
Enc.

This letter was mailed to the attached list of people.

January 17, 1984

Dear :

At its meeting of November 4, 1983, the Nevada Legislature's Committee on Public Lands took two actions regarding the resolution on "checkerboard" lands (Senate Joint Resolution No. 14 of the 62nd session, enclosed). First of all, legislative staff was directed to redraft the proposed legislation based on suggestions provided by the committee. Secondly, the committee authorized a $1,000 contract with Consensus, Incorporated, to assist in the identification of unresolved issues and alternatives based on input from the various affected interests.

A copy of the latest revision of the draft legislation is enclosed for your review. Consensus, Incorporated, will be contacting you soon concerning your views on this proposed legislation. You should keep in mind that Consensus, Incorporated, is an independent nonprofit organization which acts impartially and is neither an advocate nor opponent of the proposed legislation.

Thank you for your continued assistance and participation.

Sincerely,

Senator Norman D. Glaser
Chairman

By:

Robert E. Erickson
Staff Director

NDG/REE/llp
Enc.

Appendix C

COVER LETTER FROM CONSENSUS

CONSENSUS, Incorporated
3785 Meadow Wood Drive Carson City, NV 89701 (702) 883-2373

January 11, 1984

Dear Participant:

Consensus, Inc. has contracted with the Legislative Committee on Public Lands, State of Nevada, to do a study of interest groups' opinions, reactions and alternatives to the proposed "checkerboard land legislation". This draft legislation should have been mailed to you by the Public Lands Committee during the week of January 16-20. This legislation is being proposed to Congress as a result of a Senate Joint Resolution 14 passed by the state legislature in the last session.

Consensus, Inc. is nonprofit corporation which has no interest in the legislation except to see that the study reports each group's opinions fairly to the Public Lands Committee. The committee will then develop a universally supported bill, if possible, and then work with Nevada's Congressional delegation for passage of the bill. We have been asked to find areas of agreement and disagreement among the interest groups--there are about 60 groups. We are especially interested in finding alternatives which would make the current proposed draft more responsive to you/your group's interests. The results of this survey will be tabulated and included in a report which will go to the Public Lands Committee. The committee is truly seeking information and input. They know that united support is necessary if a Nevada bill is to succeed in Congress.

A date of February 14 has been set as the mailing deadline for you to return your survey in the self-addressed stamped envelope. Please make sure your survey is completed and mailed by that date; otherwise the committee will not have the benefit of your thoughts and comments. It is important to them to have as many responses as possible.

This survey will require that you read the proposed draft bill (yes, it does take time!). The survey itself should take from 20 to 40 minutes to complete. It is set up so that you may checkmark most of your answers or write short answers. However, should you wish to make longer answers to any questions, please do so. Surveys can never give you all options or infinite choices, so use this opportunity to use "Other" whenever necessary. If you would like to discuss some of your answers further in person or by phone, please give us a call or indicate your request at the end of the survey.

We and the Public Lands Committee appreciate your time commitment needed to participate in this survey, and we do hope that your awareness and understanding of this legislation and the issues it raises will increase. Thank you for your assistance and continued interest in Nevada's affairs.

Sincerely,

Pam Cosby, Executive Director Susan Lynn, Associate Director

Appendix D

SURVEY TALLY SHEET

WITH ATTACHMENTS

SUMMARY TALLY SHEET

INTRODUCTION

During the 1860's Congress granted the railroad alternate sections of land for 20 miles on each side of the tracks as an incentive for western settlement and railroad construction. The other sections were retained by the federal government in public ownership. Approximately 60% of the railroad's holdings in Nevada have been sold to private owners. The resulting ownership pattern has created land management difficulties for private and public land managers. Some efforts to exchange the lands and consolidate ownership have been made, but the checkerboard pattern remains.

Senate Joint Resolution No. 14 from the 1983 Nevada Legislature directs the introduction to Congress of the proposed checkerboard land bill. The bill addresses only the Bureau of Land Management (BLM) checkerboard sections. Please read the draft bill dated 1/4/84, then try to complete the entire survey which covers the issues raised by the Public Lands Committee of the Nevada Legislature and its designated subcommittee. The time previously estimated to complete this survey is too short. Completion of this survey will probably take about 45 minutes. Thank you.

Total number of respondents

27 1. Are you familiar with the term "checkerboard lands" (see Sec. 1.2 and Sec. 2.1)?
27 Yes 0 Vaguely 0 No

27 2. Should there be some effort to resolve Nevada's checkerboard land issues by consolidating, exchanging, selling or retaining the alternating pieces of federal and private lands?
20 Yes 2 No 5 No opinion

27 3. Have you/your group known of this proposed legislation (Bill) prior to receipt of the draft bill sent from the Public Lands Committee/Legislative Counsel Bureau?
23 Yes 1 Vaguely 3 No

24 4. Is the proposed legislative action needed to help resolve some of the existing land management problems?
13 Yes 5 No, there are no problems 2 I don't know, what are the problems?
3 No opinion 1 If emphasis is oriented toward land exchange legislation may not be needed

5. Several potential purposes of the legislation are listed below. Check one column for each purpose indicated below.

	Agree	Disagree	No opinion	
27	20	3	4	a. Correct a situation where lands in the checkerboard are either difficult or economically inefficient to manage.
26	13	8	5	b. Remove hazardous railroad crossings in the state.
27	12	8	7	c. Enlarge the private land tax base and allow some of the smaller counties to develop a healthy economy.

Introduction—Question 5 continued (potential purposes of the legislation)

	Agree	Disagree	No opinion	
25	13	5	6	d. Reduce the 87% federal ownership of Nevada land.
24	19	2	3	e. Consolidate, block up, exchange or set aside lands for their best uses.
24	11	6	7	f. Make money for the Nevada State government for purposes other than railroad crossings (see Question 28).
9	5	—	4	g. Other (please specify)_____

RETAINED LAND

26 6. For what purposes should the federal government retain some, if any, of the checkerboard lands? Check as many as apply.

- 7 Native American claims
- 8 Land which has existing unpatented subsurface mining claims
- 8 Land which has unpatented surface mining claims (mill sites, etc.)
- 19 Parks and recreation
- 12 Wildlife refuges
- 9 Wildlife habitat
- 11 Biologically sensitive lands
- 9 Greenbelt/conservation
- 15 Historic or archeological sites
- 13 Federal facilities
- 5 Leasing for livestock grazing
- 3 Federal government should keep all its land
- 6 Federal government should not retain any checkerboard lands
- 3 Other (please specify) fed. state, local transportation needs

26 7. For what purposes should the state retain some, if any, of the lands it may acquire from the federal government? Check as many as apply.

- 21 Parks and recreation
- 18 Wildlife refuges
- 18 Wildlife habitat
- 15 Biologically sensitive lands
- 13 Greenbelt/conservation
- 15 Historic and archeological sites
- 15 State facilities
- 6 Mineral locations
- 9 Leasing for livestock grazing
- 2 State should not retain any checkerboard lands it acquires
- 1 Other (please specify)_____

26 8. If some lands received by the state are not sold, blocked up, exchanged, transferred to local government or assigned to a state agency for a specific use, should these lands revert back to the federal government?

9 Yes 13 No 6 No opinion

PURCHASE PRICE

26 9. Initial land acquisition, according to the proposed legislation, would cost the state about $2.50 per acre or a total of $7 to $9 million. Is $2.50 per acre a fair price?

0 Too high 15 About right 7 Too low 5 No opinion

25 10. How should land acquisition be financed? Check all that apply.
- 4 State to purchase the land with a lump sum.
- 9 State appropriation by the legislature
- 9 State to purchase land on a phased schedule
- 7 State to pay the federal government with proceeds from land sales when they are completed
- 5 State to bond to raise funds
- 1 Other (please specify) No Sale

26 11. Should lands already available at no cost under the federal Recreation and Public Purposes Act (R &PP) be purchased at $2.50. (Includes parks, dam-sites, municipal facilities, shooting ranges, etc. There is a limit on the total acreage granted each year for recreational purposes.) The state should:
- 16 Acquire land under R&PP
- 4 Acquire at no charge under the checkerboard bill
- 3 No opinion
- 7 Purchase under checkerboard bill
- 1 Do not acquire or purchase these lands

25 12. Should the transfers of federal lands to the state be phased?
11 Yes 9 No 5 No opinion
What advantages or disadvantages would phasing have?

PURCHASER PREFERENCE

27 13. If the state acquires the land, should any preference be given to any persons or groups when the land is ready for resale to private parties? Granting such preferences would require changes in existing state legislation.
12 Yes 12 No 3 No opinion

24 14. If a preference is given, list in order of priority (1 to 14) those persons or groups which should receive a preference to acquire the land.
- 15 State (for retention as parks, state facilities, etc.)
- 14 Cities (for public purposes or expansion)
- 15 Counties (for public purposes including roads)
- 1 Utility rights-of-way
- 0 Foreigners (non-citizens)
- 3 Historic preservation groups
- 4 Communication sites
- 3 Nevada residents
- 1 Developers (industrial, recreational, and residential)
- 1 Native American court claims
- 2 Native American requests for land
- 6 Grazing permit holder
- 5 Mining claimholder
- 5 Adjacent land owner (includes rancher, railroad, etc.)
- 5 Highest bidder
- 2 Other

SPLIT PROPERTY RIGHTS

26 15. Because the public lands are currently managed for multiple use by multiple users, split property rights and/or permanent easements have been suggested to protect existing user rights if the checkerboard lands are sold to private persons. Should such split property rights or easements be reserved?
22 Yes 3 No 1 No opinion

26 16. Which existing property rights ought to be continued through easements or split property rights even if the land becomes private?

- 24 Public access
- 9 Access for minerals exploration
- 8 Development of subsurface mineral rights
- 9 Reserve subsurface mineral rights to the federal government
- 11 Wildlife habitat
- 4 Millsites for mining operations
- 12 Hunting and fishing
- 10 Recreation
- 8 Foot traffic (hiking)
- 7 Vehicular traffic
- 5 Firewood/Christmas trees
- 8 Rock hounding
- 13 Utility rights-of-way and highway ROW's

SALES PROCEDURES

26 17. How should the state determine the selling price?

- 14 Fair market value determined by appraisal
  - 7 Appraisal completed by state
  - 7 Appraisal completed by private appraisers
- 6 Fair market value determined by value of current uses
- 11 Competitive bidding
- 5 Other (please specify) _____

26 18. If the easements for public access and other purposes become part of the deed restrictions on land ownership, should the purchase price be adjusted to compensate the buyer?

17 Yes 7 No 1 No opinion 1 No Sales

25 19. If the land is sold to the highest bidder, would this be compatible with a deed restriction guaranteeing continued public access?

15 Yes 7 No 3 No opinion 1 Price should be set by state
1 No sales

20. Should the sale of lands by the state be phased?

16 Yes 3 No 7 No opinion

What advantages or disadvantages would phasing have? _____

21. Should there be a method of financially assisting certain parties to purchase the state owned lands?

8 Yes 12 No 5 No opinion?

22. If financial assistance is granted, who should receive it? List all the groups from Question 14 that should be eligible.

State - 3
County - 7
City - 7
Nevada resident - 3
mining - 4
agriculture - 3
adjacent land owner - 2
nonprofit groups - 2
developers - 1
small industrial developers - 1
highest bidder - 1

22 23. Which financing methods are preferable? Check all that apply.

2 Time payments for 90 days
7 Time payments for long term mortgages at prevailing interest rates
7 Time payments with low (4 to 5%) interest rates
0 Discounted land price
8 Discounted land price for public purposes only
4 All of the above
4 Other (please specify) Cash: 10% with bid + Balance in 90 days
time payment — 5-20% down with balance over 20-40 years
sell when property is requested by buyer-after bids
1 No opinion 1 No sales

26 24. Should the State of Nevada impose restrictions on the new owners with regard to windfall profits? Some subcommittee members expressed concern that private parties would buy large parcels of land, only to turn around and make large profits.

14 Yes 8 No 4 No opinion

If yes, then for how long should the restrictions continue? 5-00 years.
median = 10 years

27 25. There has been some concern expressed that large agri-business groups have been purchasing tracts of land around the country and forcing smaller ranchers out of business. Will this problem arise in Nevada if large amounts of land come on the market?

4 Yes 12 Possibly 5 No 5 No opinion 1 No sales

26 26. Should there be a limitation on the amount of land that any one person, family, partnership or corporation is allowed to purchase?

13 Yes 6 No 6 No opinion 1 No sales

USE OF INCOME GENERATED

26 27. Estimates of income to be generated from land sales by the state range from a low of $8.5 million to a high of $251 million. Sec. 4.2 states that all the funds derived from the sale of lands would be used to upgrade or relocate railroad grade crossings according to priorities set by the Nevada Department of Transportation. Is this the best use of proceeds? Mark one.

2 Yes, all of the funds should be used for eliminating railroad grade crossings.
14 No, some of the funds should be used for other public purposes.
7 No, no funds should be used for eliminating railroad grade crossings.
3 No opinion

24 28. Statements were made in the Public Lands subcommittee that other uses for the proceeds might be considered. What other uses should be considered? Mark all that apply.

17 State administration costs of land transfers and disposal
10 Environmental assessment (condition of range, plants, wildlife, etc.)
10 Cultural assessment (mining towns, fossil sites, Native American sites, etc.)
12 Future management costs for lands retained by the state (for parks, wildlife habitat, etc.)
8 Flood control
7 Fire management
7 Recreation development
4 Purchase of environmentally sensitive lands in the Tahoe Basin
4 Pay commissions to realtors if they assist the state with sales
6 Pay fees to appraisers for professional services if they are retained
11 Schools
4 Other (please specify) hiring a realtor, purchase additional lands, road construction and maintenance, alleviate planning & development impacts

25 29. Who should decide where the revenue is spent?

12 State legislature
3 An oversight land board described in Question 41
1 Governor's office
3 Voters in a special election
10 would be designated in federal legislation
1 Other (please specify) NDOT with regard to RR grade x'ings

STATE MANAGEMENT COSTS

If the State of Nevada acquires the checkerboard lands described in the proposed legislation, there will be some land management administration costs, responsibilities and liabilities. Some changes in state law may be required.

24 30. Who should be responsible for fire protection on those lands which are retained by the state?

12 Nevada Division of Forestry
0 Counties
10 Combination of above
1 No opinion
1 Other (please specify) _____

27 31. Who would be responsible for covering costs of fire protection of the land under private ownership?

4 Counties
7 County/state
11 Surface owner
5 Surface user
1 No opinion
2 Other (please specify) _____

24 32. Should accidents occur on the lands retained by the state, who would be the party responsible for liability?

17 State of Nevada
0 Counties
4 No opinion
3 Other (please specify) _____
Government immunity now prevails

27 33. Nevada would incur management expenses for lands retained by the state for parks, wildlife habitat, leasing, public facilities, historic sites, etc. How should these management expenses be financed? Check all that apply.

12 Proceeds of land sales
16 Allocation by state legislature
18 User fees
3 Special tax levies restricted to state land management
5 Private contributions
3 State should not retain any of the land
2 Other (please specify)_____

22 34. If the proposed legislation passes, a portion of county PILT (payments-in-lieu of taxes) revenue from the federal government would be replaced by property tax income from the lands transferred into private ownership. Do you see this shift as:

11 Desirable 2 Undesirable 8 Doesn't matter
1 Inevitable

LAND EXCHANGES

35. If the checkerboard lands are transferred to the state or to private ownership, the checkerboard ownership will still exist in many areas because of the checkerboard lands held by the railroad and other current private owners. Land exchanges have been suggested to "block up" the lands into more compact units of common ownership and thus make them more manageable for private developers, state management, wildlife protection, parks, etc. Should such land exchanges be actively pursued?

27 25 Yes 1 No 1 No opinion
makes road administration & ROW purchases simpler

If the state pursues land exchanges, when should they be pursued?

24 9 Prior to transferring the land from the federal government to the state.
13 After the state acquires the land but before any land sales.
7 The final recipients (state, county, municipality, private owner) and current owners should arrange any necessary exchanges.
___ Other (please specify)_____

SPECIFIC USERS AFFECTED

36. The historic emigrant trails roughly parallel the Humboldt River through Nevada. What action should the state take?

27 3 Retain the land in order to create a park or historic trail
13 Create a conservation or historic easement to preserve and allow public access
3 Take no action to preserve the historic trails
6 No opinion
6 Other (please specify) Federal ownership, Emigrant Trail - all State retention, should not be in Fed.

22 If the trail is established, what types of traffic should be permitted?

17 Hiking
17 Horses
4 Motorcycles
4 Other (please specify) traffic & camping, tourism only if across about car only historical markers allowed
6 Off-road vehicles
13 Wagons
6 Passenger cars

37. Should a cultural resources survey (for historic buildings, fossils, artifacts, etc.) be conducted under the federal Antiquities Act and its amendments?

26 13 Yes 7 No 6 No opinion

If conducted, the survey should be completed prior to

17 9 Transferring the land to the state
7 Transferring the land from the state to a private party or to local government.
1 Other (please specify) resources already known
1 No opinion

20 If the survey is done, who should pay the costs?

8 Federal government
7 State of Nevada
4 Cultural resource organizations
3 All of the above
3 Private purchaser
2 Other (please specify) sale profit, because admin cost associated with sale

24 38. What actions should be taken relative to continuing existing mining rights? Check all that apply.

7 Reserve subsurface mineral rights to the federal government
8 Allow development of subsurface mineral rights
8 With compensation to the surface owner
2 Without compensation to the surface owner
8 Have the BLM conduct mineral examinations of the land to determine or correct valid or invalid claims before the land is transferred
9 Allow access to surface for minerals exploration
8 Allow continued location ("staking") of new mining claims
6 on state retained lands
4 on private lands
3 on county and city lands
7 Allow new mill site claims
5 With compensation to the surface owner
1 Without compensation to the surface owner
9 Do not transfer any lands with valid mining claims to state or private control
None of the above
4 Other (please specify) State should retain lands with claims in compliance with 1872 mining law
No opinion

27 39. The courts have ordered the BLM State Office in Nevada to remove all wild horses from the checkerboard lands. In light of the court decision, what action, if any, should be taken with regards to wild horses and the proposed checkerboard legislation?

Comment: Examples: Get rid of them
Create a tourist attraction facility
Not a problem since BLM must remove
8 No opinion

ENVIRONMENTAL ASSESSMENT

24 40. Sec. 5.3(c) states that a state board should establish a detailed procedure for assessing the environmental impacts of the state transferring lands to private interests of local governments. Sec. 8 would exempt this federal legislative action from the requirements of the National Environmental Policy Act of 1969 (NEPA). Is it appropriate for the state to conduct the environmental assessment instead of the federal government?
13 Yes 8 No 4 No opinion

15 If yes, why? Check all that apply.
8 Speeds up the land transfer process
11 State can conduct adequate environmental assessments
8 State should pay for the environmental assessment with profits from the land sales
4 Other (please specify) _____

11 If no, why? Check all that apply.
5 State is not likely to conduct an adequate environmental assessment
8 This is a major federal action and should be evaluated by the federal government
6 The review needs to be coordinated with the BLM District Management Framework Plans or Resource Management Plans
2 Other (please specify) state has no law, State would allow special interests to dictate
2 Neither should do

OVERSIGHT BOARD

41.a It has been suggested in Sec. 5.3 that a board, perhaps similar to Nevada's Public Works Board, oversee the land transfer process. It would be called something like the "Public Lands Board" or the "Checkerboard Land Board" or whatever. Is a board an appropriate means of governing the state acquired lands?
27 21 Yes 4 No 0 No opinion

b. If yes, should this board report to a state agency?
21 17 Yes 4 No 0 No opinion

20 c. If yes, which agency or entity?
1 Dept. of Transportation
5 Dept. of Conservation and Natural Resources
8 Division of State Lands
6 Governor's Office
5 Public Lands Committee of the Nevada Legislature
2 Other (please specify) voters, Counties

6 d. If no, to whom should the board report?
1 Voters
2 Counties
3 Other (please specify) legislature, combination applies to all except legislature and counties
report to feds. since they should retain ownership

Oversight board--Question continued

24 e. Who/what should be represented on this board? Indicate the number of representatives each group should have (0 to ?).

- 5 Railroads
- 11 Legislature
- 12 Governor's Office
- 3 US Dept of Transportation
- 9 NV Dept of Transportation
- 7 US Dept of Interior (BLM)
- 6 US Dept of Interior (Fish & Wildlife)
- 13 NV Dept of Wildlife
- 16 NV Dept of Conservation & Natural Resources (water, land, env. protection, historic preservation, forestry, parks etc)
- 5 NV Dept of Taxation
- 7 NV Dept of Agriculture
- 9 NV Dept of Minerals
- 14 Environmental groups
- 18 Mining industry
- 18 Ranching & agriculture
- 18 Counties
- 11 Cities
- 10 Utilities (power, gas, cable)
- 3 Realtors
- 5 Appraisers
- 7 Off-road vehicle groups
- 12 Wildlife & sportsmen groups
- 11 Historic preservation groups
- 7 Other (please specify) Public-at-large - 5 Small miners

22 f. Please specify the size of this board (in numbers). 9 - 12 average 7-40 extremes

24 g. What should be the process for selection of board members?

- 0 Election
- 5 Appointment by the Governor
- 3 Appointment by the Public Lands Committee of the Nevada Legislature
- 14 Representation classifications set by law allowing each entity to select its own representative (ie. the counties select their own representative.)
- 5 Other (please specify) _____

25 h. Should this same board manage both the checkerboard land transfer and the railroad grade crossing elimination?

9 Yes 13 No 3 No opinion

19 i. If there should be no board, how should the land acquisition, retention or disposal process be managed at the state level?

- 0 Interagency agreement
- 3 New state agency
- 12 Division of State Lands
- 4 Other (please specify) voter approved sales & purchases Legis. Public Lands Committee application to State Lands for review & approval in conjunction with Sec of State & Leg PLC

ALTERNATIVES

42. What are the major strengths of this bill?

See Separate Sheet

43. What are the major weaknesses of this bill?

See Separate Sheet

Alternatives continued

14 44. What alternatives would you suggest to make this bill fit your group's needs and goals? Attach a separate sheet of paper if you need extra space.

See separate sheet

TIMING OF DECISIONS

25 45. Using the three options listed below, please indicate the level of government which should decide each of the issues listed separately below

Option A—Issue should be settled by Congress
Option B—Issue should be settled by the Dept. of Interior
Option C—Issue should be settled by the state legislature
Option D—Issue should be settled by the state agency or board
Option E—Issue does not need to be settled

F 1 Which lands are retained by the federal government
S 2 Which lands are retained by the state government
F 3 Purchase price from the federal government
S 4 Purchaser preference
S 5 What existing property rights will be continued through permanent easements or split property rights
S 6 Procedures for determining the state's selling price
S 7 Which buyers will receive financial assistance
S 8 Types of purchase price financing
S 9 If and how land transfer will be phased
S 10 If and how land sales by the state will be phased
S 11 Controls, if any, on windfall profits
S 12 Limitations, if any, on the maximum acreage to be purchased by any one entity
S 13 Eligible uses of revenues generated by land sales
S 14 Identify sources of funding for state land management
S 15 Identify funding sources for state administrative costs
S 16 Identify funding source of initial land purchase
S 17 Decision to establish or not establish the historic emigrant trail along the Humboldt River
S 18 Timing and responsibility for cultural resources surveys
S 19 Timing and responsibility for environmental assessments
F 20 Procedures for protecting mining rights
S 21 Membership and responsibilities of the oversight board
22 Other (please specify) _____

26 46. If this legislation is submitted with the current language (drafted 1/4/84) would you
3 strongly support this bill
7 support this bill
4 remain neutral
5 oppose this bill
5 strongly oppose this bill?
3 Undecided, uncommitted, noanswer

22 47. What are the primary reasons for your position on this bill? Attach an extra sheet of paper if you need more space to answer.

13 48. If you/your group opposes this bill, what changes in the bill would be necessary for your support?
2 Minor revisions (specify below)
3-4 Major revisions (specify below)
3 A totally new bill (specify major provisions below
4 No bill would be acceptable

18 49. What national groups or representatives would you work with to present your views to Congress? full gamut

9 50. General Comments: _____

Name _____

Group represented _____

Address _____

Phone _____ work (if permissible)
_____ home

___I would like to discuss this survey with you further.

___I will call you at 322-4486
___Please call me at _____
___I can be reached during the hours of _____

Question 45 - Timing of Decisions

Options	A	B	C	D	E	Combination
Question 1	13	7			2	
2	1		11	10	1	C+D D+B
3	18	2	1	2	1	A+C B+C D+B
4	3		9	7	2	D+C-2 A+D
5	6	1	5	7	2	D+C A+B
6	1		9	8	1	A+C C+D A+D
7	1		6	7	5	
8	1		9	7	2	A+D
9	3	3	5	5	3	A+B+D A+D D+B
10	1		5	12	2	A+D
11	2	1	2	5	2	A+C
12	4		7	8	2	C+D A+C
13	4		11	4	1	C+D A+C
14	2		15	4	1	C+D
15	2		14	4	1	C+D
16	2		13	5	1	A+C C+D
17	1	2	7	5	4	B+D A+C-2 C+D
18	1	4	3	9	3	A+C
19	2	3	5	9	1	B+D A+C
20	10	1	4	4	2	C+B B+D A+C
21	1		14	3	3	A+C

2 Did Not Respond

Cross-Match of Support / Opposition

	No answer	minor revisions	major revisions	totally new bill	no bill	support concept	Total
Strongly support	3						3
support	4	1	X			2	7
neutral	~~3~~			1			3+1=4
oppose		1	2	1	1		5
strongly oppose			1	1	3		5
undecided	1						1
no answer/ non committal	2+1						~~3~~ 2

Mining - 6 respondents
- support - 2
- neutral - 1
- oppose - 2
- undecided - 1

Agriculture - 4 respond
- support - 2
- neutral - 1
- undecided - 1

Counties & Cities - 4 respondents
- support - 2
- neutral - 1
- undecided - 1

Utilities - 1 respondent
- oppose - with minor revisions

Wildlife, Sportsmen Conservation, Recreation, Historic Trails - 8 respond
- support - 1
- oppose - 4
- strongly oppose - 3

Transportation - 1 respondent
neutral - 1

Strengths of the Bill

1. Need to get the checkerboard lands back to the state and on the tax rolls

2. Need to block up checkerboard ares for better management

3. Need to reduce federal land ownership in Nevada

4. Put land use decisions closer to home

5. It provides for the disposal of some public lands into private ownership as set forth by the Constitution.

6. It favors a very small minority of special interest groups. Railroad crossings are already financed by gas taxes, bonds and grants.

7. I don't see any.

8. Unknown.

9. Needed to resolve checkerboard land management problems.

10. Section 5.3

11. Safety to trawling public. Removes barriers for local government. Eliminates the unmanageability of federal checkerboard pattern. Facilitates high speed trains.

12. Optimism.

13. None

14. Easier management and less federal government. It can generate some money, but if the present users or adjacent land owners get this land they would not be able to pay a large amount for it if they are to continue using it for agricultural purposes. That is why capital gains ought to be penalized on behalf of the state. This will ensure that only legitimate users by the land to continue or preserve our ranching base in the state.

15. Getting the land back into the hands of the public.

16. The best use to be gained of the now unuseable area involved.

17, Refer to Hill and Miller letters

Weaknesses of the Bill (continued)

19. Special interests, circumvents NEPA, BLM planning, state constitution and threatens land values, ranchers and miners.

Weaknesses of the Bill

1. Refer to Hill and Miller letters.

2. Gives away land and problems to a favored few adjacent owners, mostly the railroads. Does not have a public purpose like helping schools. Does not limit acquisition by a few.

3. Too much chance for political favors as happened many years ago with federal lands transferred to the state. Most lands were sold.

4. Third party user protection—utility rights of way.

5. See letter—threatens wildlife, confers preferences, denies citizen majorities, threatens multiple use concept, land protection, getting local governments into expensive lawsuits, could cause the state to become owned by outsiders, threatens civil rights and public access.

6. The "why" of it eludes me. Section 1.3 makes a blanket assumption and isn't specific. If the feds can't do the job, how can the state? If the state wants to sell it off, which seems it intends to do, why don't they direct the BLM to dispose of it directly and see appropriate legislation to that effect. Basically it seems dishonest in its stated purpose.

7. Bill appears to be too general with respect to how the land will be disposed of. More detail should be incorporated .

8. It will open up special interests.

9. Flimsy excuse to carry out the Sagebrush Rebellion. Lacks specific details on Board, retention of which lands, costs.. Too many practical problems are left unaddressed. Bill is not in the national interest.

10. It does not segregate out BLM lands which have already been blocked up. It requests exemption from NEPA. It can benefit only railroad crossings. Section 6.2 needs to have stronger public purpose provisions. Needs to benefit all Nevadans, not just ranchers.

11. See #11 of Strengths of Bill.

12. Sales price of $2.50 and the manner of financial management.

13. Getting the feds to let go of their control.

14. Using all the money for railroad crossings.

15. Tieing "profits" to improving railroad crossings. Touting this as a Nevada-only issue. There are checkerboard problems in other western states. Legislation which would address the entire western problem would have better chance of passage.

16. None.

17. Having enough "perks" for national lobbyists.

18. Such action is a dream

Suggested Alternatives

1. First right of refusal might be considered to be preferential treatment, but would guarantee ongoing uses of agriculture.

2. Some procedures to insure the multiple use of the lands, to avoid corruption of private sales, protect the resources.

3. Our group concurred with presentations made during the '83 session.

4. Our needs are best met by federal control, multiple use. We would like continuation of access, retention of mineral rights, grazing rights guaranteed by the feds; in other words we want to keep all the traditional uses...with appropriate controls to see that no group harms the land.

5. If the state seemed, or in fact, was more aggressive in plant conservation, we would have fewer apprehensions.

6. More specifics relative to the major issues...access, wildlife.

7. I do not believe the state can wisely manage the lands. The history of "in lieu" land sales raises serious questions as to whether the state would control special interests.

8. See #10 under Weaknesses of bill.

9. See Hill letter.

10. Our interests involve geothermal rights on public lands, assuming mineral rights are retained by the federal government. This bill would have little effect on our development plans.

11. The mineral lands must be kept open to location and development under the 1872 mining law. There are some 18 agricultural areas in Nevada that should be opened up and sold as ag land at a fair market value to be appraised by county assessors.

12. Third party user protection (meaning protection of utility rights of way to include transmission lines, cable and microwave sites.

13. Statu' quo

14. Needs more consideration of a realistic bill plus criteria for state retention, disposal, management and use of any income. Support addressing [redacted] checkerboard issue.

Appendix E

LETTERS SUBMITTED

TO THE

PUBLIC LANDS COMMITTEE

AND

CONSENSUS, INC.

39-321 O - 84 - 8

LETTER RESPONSES

TO THE

DRAFT CHECKERBOARD LAND LEGISLATION

1) Nevada Mining Association
   a. Hoy & Miller, Chartered, response
2) Texasgulf Minerals Exploration Co.
3) Hill Cassas deLipkau and Erwin
4) Imco Services
5) Western States Mineral Corporation
6) Coeur Explorations, Inc.
7) Lacana Mining Corporation
8) Placer U. S. Inc.
9) Hoy & Miller, Chartered
10) Cyprus Northumberland Mining Company
11) The Standard Slag Company
12) Nerco Inc.
13) Phillips Petroleum Company
14) Nevada Miners and Prospectors Association
15) Nevada Miners and Prospectors Association
16) Hill Cassas deLipkau and Erwin
17) State of Nevada, Department of Transportation
18) Pershing County Sportsmen's Association--Marlowe Jevning
19) Sierra Club--Toiyabe Chapter
20) Nevada's Checkerboard Land for Public Safety--Mark Chilton
21) Nevada Wildlife Federation
   a. Resolution Number 8

NEVADA MINING ASSOCIATION, INC.
POST OFFICE BOX 2498
RENO, NEVADA 89505-2498

ROBERT E. WARREN
Executive Secretary
W. HOWARD WINN
Consultant

ROOM 700 • ONE EAST FIRST STREET
RENO, NEVADA 89501
TELEPHONE (702) 333-8575

BOARD OF DIRECTORS

November 14, 1983

M E M O

TO: NMA Board of Directors & Sustaining Members; Mining Law Attorneys; Selected Exploration Firms.

FROM: Robert E. Warren, NMA Executive Secretary

SUBJECT: Request from Nevada Legislative Committee on Public Lands for Input from Nevada Mining Association on Proposed Legislation to Dispose of Checkerboard Public Lands in Northern Nevada.

Following a recent (November 4) protest by the Nevada Mining Association concerning the potential negative impacts on the mining industry of the proposed legislation (enclosed), Senator Norman Glaser, chairman of the committee, has requested the NMA and selected mining law attorneys to provide input into the proposed legislation. The legislation, authorized by the 1983 session of the Nevada State Legislature, will be forwarded to Senator Paul Laxalt for introduction in the U.S. Senate.

Senator Glaser and his committee are pushing for a quick response from the Nevada mining industry so they can forward the proposed legislation to Senator Laxalt.

The legislation would direct the Federal Government to sell at very low cost the alternate public land sections of the 40-mile wide Southern Pacific right-of-way across all of Northern Nevada. The state, in turn, would re-sell most of the land in an attempt to secure funds to eliminate dangerous at-grade crossings of roads over the Southern Pacific rail lines. (Including such cities as Reno and Las Vegas.)

Some of Nevada's premier precious and industrial mineral mines are located on these lands; and some of the remaining land has high mineral potential.

Acting upon a request by the Carlin Gold Mining Company, Elko Attorney John C. Miller has drafted a letter (enclosed) outlining both the advantages and disadvantages of the proposed legislation. He has raised some serious questions about continued unrestricted access for the mining industry to these lands, should Congress enact the bill.

Other questions that have arisen:

- If the land is sold to private interests, will the mining industry still have rights of entry and production under the Mining Law of 1872?

- Will the industry be able to locate non-mineral claims on the private lands for storage of waste materials, for access tunnels, etc. (Or will the industry be forced to resort to eminent domain condemnation?)

PLEASE TAKE CAREFUL NOTE OF SECTION 7. This language is intended to protect the mining industry and to continue all existing rights, including the rights granted by the Mining Law of 1872. Does it accomplish this?

Senator Glaser's committee requests the following information:

- What problems may be caused by this proposed legislation?
- What suggestions can industry offer to amend and make the legislation workable?

The Nevada Mining Association requests the following information:

- Do you support or oppose this legislation?
- Do you support with amendment?

Robert E. Warren

cc: Senator Paul Laxalt
Senator Norman D. Glaser, Chairman, Legislative Committee on Public Lands
Other Committee Members: Assemblyman Danny L. Thompson, Vice Chairman
Senator James H. Bilbray
Senator Alan H. Glover
Assemblyman John W. Marvel
Assemblyman David D. Nicholas
Clark County Commissioner Karen . . Hayes
Staff Director: Robert E. Erickson,
Principal Research Analyst

PROPOSED BILL TO PROVIDE FOR THE ORDERLY DISPOSAL OF PUBLIC LANDS IN THE "CHECKERBOARD" AREA OF NORTHERN NEVADA

A BILL to provide for the orderly disposal of certain Federal lands in Northern Nevada.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED:

Section 1. The Congress finds that:

1. In the 19th century grants of alternating sections of land were made to encourage the building of several railroads in the State of Nevada;

2. As a result, the Bureau of Land Management holds extensive lands in a "checkerboard" pattern of alternating sections of public and private land in a strip of land which is 40 miles wide across northern Nevada;

3. These unreserved and unappropriated public lands are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another federal department or agency;

4. It is no longer useful or necessary for the Bureau of Land Management to hold these unreserved and unappropriated public lands;

5. The Federal Government possesses 87 percent of the land in the State of Nevada, more than in any other state in the Union, except Alaska;

6. Grade crossings of railroads in Nevada are dangerous and disruptive to the development of commercial, agricultural and urban interests; and

7. A project to eliminate these crossings by relocating railroads in Elko, Nevada, has been funded by the Congress and additional projects to eliminate grade crossings should be funded for other urban areas of the state.

Section 2. For the purposes of this act, the term:

1. "Disposable lands" means all lands which are owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management and are located in alternating sections of public and private land in the strip of land 40 miles wide centered upon the former Central Pacific Railroad across northern Nevada, except lands:

(a) Which are held in trust for the benefit of Indians or are Indian reservations; and

(b) Which are located within congressionally authorized national parks, monuments, national forests or wildlife refuges, or which have been acquired by purchase consented to by the legislature.

2. "Secretary" means the Secretary of the Interior.

3. "State" means the State of Nevada.

Section 3. The Secretary shall within 12 months after the effective date of this act submit to the Congress a description of all disposable lands, together with a description of any improvements located on those lands, and a list of those lands within the strip of land containing the disposable lands to be permanently retained by the Federal Government.

Section 4.

1. Except as provided in subsection 2, the Secretary shall within 6 months after the requirements of section 5 have been met convey to the State all right, title and interest of the United States in and to the disposable lands.

2. The Secretary shall in the patent issued to the State reserve all gas, oil, coal and other minerals.

Section 5. The State before conveyance of the disposable lands by the Secretary shall:

1. Agree to pay to the United States as the land is sold by the State:

(a) The sum of $2.50 per acre;

(b) An amount equal to the fair market value of any improvements on those lands;

2. Agree to use all money from the subsequent sale of those lands to eliminate grade crossings of railroads in the State; and

3. Establish a board to manage the disposable lands and require the board:

(a) To prepare, in cooperation with appropriate state agencies and local governments throughout northern Nevada, plans or statements of policy concerning the use of the disposable lands;

(b) To encourage public comment upon the various matters treated in a proposed plan or statement of policy throughout its preparation and to submit its work on each plan or statement of policy to the Secretary for his review; and

(c) To establish a procedure for preparing detailed statements on the environmental effect of the disposal of the disposable lands received by the State, which substantially conforms to that which Title 40 of the Code of Federal Regulations, parts _____

_____

would require if it so disposed of the lands as a major federal action.

Section 6.

1. The State shall not convey any of the disposable lands received unless the following requirements are met:

(a) The State shall reserve such easements and other interests as are necessary to ensure public access to federal lands and to lands which are retained

by the State.

(b) The State shall retain an easement for conservation pertaining to each parcel conveyed, suitable to protect the availability of the land as open space and any specially desirable characteristics of that land in its natural state or sites of historical or archeological interest thereon.

(c) The conveyance is consistent with the plans or statements of policy and environmental statements required by subsection 3 of section 5 of this act.

2. No person may purchase from the State more than a total of 2,560 acres.

3. Any administrative or recording costs incurred with respect to any conveyance by the State must be borne by the person to whom the conveyance is made.

4. The State may sell disposable lands under modified competitive bidding or without competitive bidding or exchange those lands to the following potential purchasers:

(a) Adjoining landowners;

(b) Holders of mining claims under the Mining Law of 1872 (c. 152, 17 Stat. 91), as amended; and

(c) Historical users,
of the lands offered for sale.

Section 7. The property conveyed must remain subject to any encumbrances existing on the effective date of this act which are not extinguished before conveyance, including easements, servitudes, leases, rights of way and rights of mining claimants.

Section 8. The conveyance by the Secretary to the State must not be treated as a major federal action within the meaning of the National Environmental Policy Act of 1969.

Code:PBi113, 11/4/83

HOY & MILLER, CHARTERED

Attorneys and Counsellors at Law

DAVID R. HOY
350 South Center Street
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(702) 786-8000

JOHN C. MILLER
Blohm Building
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Elko, Nevada 89801
(702) 738-8064

June 21, 1983

Carlin Gold Mining Company
P. O. Box 979
Carlin, NV 89822

Attention: Mr. Ralph Mattson,
Executive Vice-President and General Manager

Re: Privatization of the Railroad Checkerboard Land Area

Dear Ralph:

I had a chance to give some thought to the idea proposed by Mr. Mark Chilton of Elko, Nevada that the public lands within the Railroad Checkerboard across northern Nevada be sold to adjoining property owners and the proceeds therefrom used to build a railroad freeway across the northern part of the state. In proposing that, Mr. Chilton, who has had some experience with railroad construction, is hoping to upgrade rail service in the northern part of the state while, at the same time, eliminating grade crossings that have proved not only dangerous but expensive for the railroads to maintain. The idea, as presented by Mr. Chilton, is not without some merit and, of course, is not without some drawbacks.

Mr. Chilton's idea sprang forth from Chilton Engineering's involvement in the railroad relocation project here in Elko. I personally have favored the railroad relocation project through downtown Elko as when such is completed it will certainly make Elko a more pleasant town in which to live. Now that Chilton Engineering is finisning the Elko relocation project, they are looking on to other similar projects that might be undertaken. The idea of a railroad freeway across Nevada can be appealing to the railroads if funded elsewhere as it would allow them to rebuild much of their roadway across this state with new track and new ties. At the present time, they are unable to achieve efficiencies of speed in many parts of the state because of the inadequate rail system that forces them to slow down. With the support of the railroads, and possibly the support of the Bureau of Land Management which has difficulty in managing the checkerboard lands, there is a possibility that this land sale idea could receive favorable attention from Congress in the state legislature.

The idea basically is to sell the alternating public sections in the checkerboard to create money for a trust fund to be used in relocation and reconstructing the railroad tracks across northern Nevada. The land sales, as I understand it, would give preferential treatment to the grazing users and adjoining land owners. Supposedly, the mineral rights would be reserved to the United States and, hopefully, left open for location.

As I told you when you were in the office, I am not against the idea of more land in this state going into private ownership. As long as the land of this state is in the ownership of the federal government we here in Nevada are governed, in a large part, by people residing outside our state. We do not have reciprocity in governing private states, such as Texas or Delaware, while the people of Delaware and Texas have a say so in governing Nevada. This is somewhat basically unfair.

From the viewpoint of Elko Land and Livestock Company, the ability to purchase the alternating public sections within the ranch fence lines could be attractive. If Elko could purchase this area that is now used for grazing, they would go a long way toward removing themselves from the regulations and whims of the BLM in running their cattle operation.

With all of the above background, I would now like to give you my thoughts from a mining lawyer's point of view. As a mineral attorney who has had some experience in dealing with severed mineral rights, I would have to advise Newmont and Carlin Gold to oppose this particular plan. If carried out, the plan would create many many problems, some of which may be insurmountable, to Carlin's present claim position in the public land sections surrounding the Carlin Gold Mine area.

Presently, Carlin has, as do others, many claims staked covering all or portions of certain public land sections. If a plan to sell the surface of those sections was implemented, what would happen to the present status of the claims already located? Under the present 1872 Mining Law, when such claims were located you obtained the rights to the locatable minerals and surface as needed for mining and milling purposes. True, the federal government retained the right to manage the vegetative resources, such as cattle grazing, timber, etc., but, nevertheless, if you should take the claims to patent you would gain not only the minerals but the surface. If the plan would go into effect in those areas where they would attempt to sell the surface they would have to exclude present mining claims thereby forcing complicated, time consuming and expensive mineral surveys, or the equivalent thereof, in sections that are partially covered by present claims.

Perhaps a more drastic result would be that such attempted sale would cause the BLM to make a mineral evaluation on each of the claims located in sections to be sold. We all know that only a small percentage of claims owned by mining companies have known discoveries on them. Other claims may have known discoveries in the future but full exploration has yet to be performed. A common practice of the BLM in forming national parks, national monuments or wildlife withdrawals is to get rid of known mining claims. They do this by undergoing a mineral examination, and if a claim cannot pass a rather rigid examination for mineral content the claim is voided and then the land withdrawn, not allowing further location. I am afraid that any type of sales procedure would force the BLM to undertake massive evaluation of unpatented mining claims.

Another problem presented by this massive land sale to adjoining ranchers, the Southern Pacific Land Company, and others, would be to remove surface area from location. Even if the lands in question had the minerals reserved to the United States and open for location, it would then be impossible to stake a millsite claim to process the minerals from a particular lode claim. A millsite claim, as you know, is in essence only a surface use claim and if the surface is privately owned it can't be located.

Still another problem with selling the public sections to private interests with the minerals reserved to the United States would be the problem between owners in the severed mineral situation. I don't care how the language of any piece of legislation is drafted--there is ultimately going to be friction between the surface owner and the mineral developer. It is going to end up costing the mineral developer money in placating the surface owner. This particular situation is dramatized in the recent decision of the Nevada Supreme Court in the Christensen v. Chromalloy case.

Yet another problem may be with access to known mineral areas or mining claims. One good feature of the Railroad Checkerboard is that it has allowed attorneys for those seeking access to take just about any position that they deem favorable to their client.

As I discussed with you, I was a supporter of the Nevada Sagebrush Rebellion movement. Such act laid claim to all the federal lands for the benefit of the State. At the time the act was passed by the Nevada Legislature, it in essence grandfathered in the 1872 Mining Law and adopted it as though it were a State law for the purposes of mineral location. Such was an attempt by Nevada to obtain full control over the lands within the State boundaries. The catch, of course, is that by getting it into State

ownership monies are not raised that would finance the railroad freeway that Mr. Chilton desires. From a mining point of view, I cannot get over the hurdles that I discussed above, and thus I would have to recommend that Carlin Gold and Newmont take a stance against the concept of selling the public lands within the Railroad Checkerboard.

A fair share of Nevada's mineral wealth lies within the Railroad Checkerboard. The Carlin Gold holdings at the original mine and the new Gold Quarry area are perfect examples. Others exist. The barite empire near Battle Mountain is almost entirely within the Railroad Checkerboard as is the big Duval property. The Pinson Mine north of Golconda is within the Railroad Checkerboard area. Following the checkerboard toward Reno, it will be seen that the tungsten property near Imlay, Nevada is within the checkerboard as are many of the properties in the Lovelock area. I think a little research on this matter would point out that considerable study should go into this issue and that very exact monitoring of any proposed legislation be made.

Sincerely yours,

/s/ JOHN C. MILLER

JCM:slt
cc: Carlin Gold Mining Company
Attention: Mr. J. D. MacBeth

Newmont Services, Ltd.
Attention: John P. Fitz-Gibbon, Esq.

Texasgulf Co.
255 Glendale Avenue, Suite 15 Sparks, Nevada 89431 702/331-6014

November 16, 1983

Senator Norman D. Glaser
Chairman, Legislative Committee
on Public Lands
P.O. Box 1
Halleck, Nevada 89824

Dear Senator Glaser:

I have recently reviewed the proposed bill that would privatize the federal land within the railroad "checkerboard" of northern Nevada. I am firmly opposed to any effort to sell these lands and remove them from the public domain. There is enormous potential for mineralization that is yet untapped and will require years of exploration and exploration dollars to investigate. Acquiring the mineral rights through claim staking rather than optioning or leasing rights from private owners is the most efficient method of protecting an exploration and development investment. It allows more dollars to be spent on hard exploration rather than on lease or purchase payments, thereby benefiting the general public rather than one owner.

In addition, despite the grandfather clause in section 7 of the bill, lawsuits between "new" surface owners and "old" mineral owners will arise and will undoubtedly be costly to the mining company.

In general, the bill will be detrimental to the mining industry, detrimental to local economies dependent on the industry, and detrimental to the state coffers dependent on tax revenues from the mining industry.

Sincerely,

Paul D. Hartley
District Geologist
Western District, U.S.

PDH/dc
Xc: Mr. Robert E. Warren
NMA, Executive Secretary
P.O. Box 2498
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Hill Cassas deLipkau and Erwin

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Retired as Partner

November 21, 1983

NOV 2 - 1983

Mr. Robert E. Warren
Executive Secretary
Nevada Mining Association, Inc.
P.O. Box 2498
Reno, Nevada 89505-2498

RE: Privatization of Checkerboard Lands
Our File M-245-83

Dear Bob:

Thank you for providing me with a copy of your memorandum of November 14, 1983.

Please view this letter as a preliminary and stop-gap response to the requests voiced in your memorandum. My firm is engaging in some research toward providing for in depth responses and suggestions, which I will pass on to you at a later date.

I see numerous problems with the Checkerboard Land proposal.

Federal Land Policy

The Federal Land Policy and Management Act of 1976 requires that all federal lands be retained in federal ownership, unless the disposal of the lands would better serve public interest than retaining them. Although the draft bill accompanying your memorandum seeks to recite that public interest would best be served by the proposed transfer, I expect strong opposition to both the recital and the concept from environmentalists and conservationists nationwide, and from eastern Congressmen who consider the public domain in the west to be a cherished heritage of their constituents. Those interests typically view the railroad grants, whereby the sections now in private ownership were conveyed to the railroads, to have been an outrageous and lamentable "rip-off" against the general public and in favor of special interests. It is safe to predict that an effort to transfer the alternate checkerboard sections will,

in this day and age, be viewed by these interests as an even more outrageous "rip-off".

Special Interests

John Miller, in his letter of June 21, 1983 identifies some of the special interests which motivate and/or support this proposed legislation. Among these are engineering firms who would like contracts to design and construct overpasses, underpasses and similar structures to eliminate railroad grade crossing, and railroads, which would benefit from the absence of the grade crossings. (A general public interest which would be promoted by the absence of grade crossings, but which is not addressed in the proposed bill, would be public safety: Removal of the hazard to life and limb now inherent in existing grade crossings.)

Severed Estates

As John Miller points out, severance of the mineral estate from the surface estate inevitably creates conflict between owners of the two estates. The proposed measure would extend, and introduce mischievous new elements to, this conflict. Depending upon the ultimate language of the mineral reservation prescribed by the statute, this law could provide employment for several generations of lawyers and title examiners in Nevada.

BLM Land Management Problems

Admittedly, a checkerboard pattern of land ownership where the sections alternate between government and private ownership creates management problems. So far as I am aware, the Bureau of Land Management, which is charged with management of the government lands, does not view this problem as insurmountable. I doubt that the land managers in the Department of the Interior would testify before the Congressional committees that managing the checkerboard lands is "difficult and uneconomical" or that such lands are "not suitable for management" by the Government.

For the foregoing reasons, I strongly doubt that Congress will authorize the wholesale disposal of the checkerboard lands in Nevada or in other states having such checkerboard corridors in the foreseeable future.

Turning now to the proposed legislative bill which accompanied your memorandum, I will offer a few preliminary comments only. The research mentioned above will examine the proposed bill draft in detail, and will furnish me with the basis for recommending changes in the bill drafting approach.

Section 1 should include a recital that the public interest will better be served by a conveyance of the checkerboard lands to the State of Nevada than retaining them in federal ownership, to comply with FLPMA.

Paragraph 6 of Section 1 should emphasize hazard to life and limb, as well as the other dangers and inconveniences inherent in grade crossings.

Section 2 should define certain other critical terms used in the Act, e.g., "grade crossings", "improvements", "fair market value", "public access", "conservation", "person", "administrative costs", "modified and competitive bidding", "adjoining land owners", and "historical users".

The bill should be expanded to afford prospectors, permittees and lessees under the mineral leasing laws the same opportunities and protection as the present draft of the bill provides to claimants under the Mining Law of 1872. "Mineral leasing laws" in this context should include the geothermal mineral leasing laws. In my opinion, the reservation language set forth in paragraph 2 of Section 4 would cause geothermal resources to be reserved to the United States.

The mineral reservation language should be expanded to include the right to prospect for, mine, extract, and remove the reserved minerals, and to use, consume or destroy so much of the surface as is necessary for those purposes, subject to the obligation to pay to the surface owner damages inflicted by such activities, as measured by the difference in value of the land before the mining operations commenced and after they were completed. The statute should specify that persons qualified to locate mining claims under the Mining Law of 1872 or acquire mineral leasing rights under the Mineral Lands Leasing Act of 1920, or the Geothermal Resources Leasing laws may enter upon the lands for the purpose of exercising such rights with respect to reserved minerals. The statute should specify that it is self-executing, and that no regulations need be promulgated by the Secretary in order to implement its provisions.

As noted above, this letter is intended as a temporary stop-gap to inform you that I do have grave concerns about this concept, and that I am working upon more definitive comments and recommendations. I will supply you with the latter as promptly as

possible.

Kind personal regards.

Sincerely,

HILL CASSAS de LIPKAU AND ERWIN

BY Earl
Earl M. Hill

EMH:km

4

November 22, 1983

Senator Norm Glaser
Chairman of the Legislative Committee
on Public Lands
P. O. Box #1
Halleck, Nevada 89824

Dear Senator Glaser:

This letter to you is in response to the November 14th memo written by Bob Warren of the Nevada Mining Association in regard to the checkerboard lands across Nevada.

IMCO Services is opposed to the legislation as written. Problems we see caused by this proposed legislation first and foremost would be access to those lands. We believe that the rights under the 1872 Mining Law should be maintained for those lands in order that the mining interests will have guaranteed access. The guaranteed access should be without monetary considerations until such time as there would be surface damage. The mining company certainly should be obligated for any surface damage that might be created.

Yours very truly,

Fred A. Beeman

FAB/glj

cc: David A. Brown
Bob Warren

IMCO Services
A Division of HALLIBURTON Company
1657
P.O. Box [redacted] • BATTLE MOUNTAIN, NEVADA 89820 • (702) 635-5143

Western States Minerals Corporation

4975 Van Gordon Street
Wheat Ridge, Colorado 80033
(303) 426-7042

November 22, 1983

NOV 28 1983

Mr. Robert E. Warren
NEVADA MINING ASSOCIATION
P.O. Box 2498
Reno, NV 89505-2498

Re: Proposed "Checkerboard" Legislation
Your Memo dated November 14, 1983

Dear Mr. Warren:

Western States Minerals Corporation is a mining company actively involved in exploration, development, and mining activities within the subject checkerboard land pattern. Our current activities are conducted on both private and public lands and we are satisfied with the current system.

Please be advised that we oppose the proposed legislation with or without amendment. We appreciate NMA's protest efforts and would urge the continuation of those efforts.

Sincerely,

WESTERN STATES MINERALS CORPORATION

Allan R. Cerny
Land Manager

ARC/db

Enclosure

Coeur Explorations, Inc.
A Subsidiary of Coeur d'Alene Mines Corporation

SUITE 26, 255 GLENDALE AVENUE, SPARKS, NEVADA 89431
PHONE (702) 359-2252

November 23, 1983

Board of Directors
Nevada Mining Association Inc.
P.O. Box 2498
Reno, NV 89505-2498

Gentlemen:

The proposed sale of public lands within the Railroad Checkerboard Land area would create many problems for mining companies. The proposed legislation as written would have a negative impact on the mining industry. Therefore, I am opposed to this bit of legislation.

The land sale, as I understand it, would give preferential treatment to adjoining land owners and grazing users. Surface rights would be sold and access to lands restricted. The mining developer would be at the whims of the new surface owner. The cost of developing minerals would skyrocket in trying to console greedy land owners.

The proposed bill makes no provisions for the status of claims already located. If the plan would go into effect in these areas, would present mining claims be excluded? Expensive mineral surveys or other time consuming operations would have to be undertaken to protect mining interests.

Another problem presented by this massive land sale would be the removal of surface rights and the ability to locate non-mineral claims on these lands; i.e., Mill Site claims. The processing of minerals would have to be located in another place, driving the cost of developing minerals higher and higher.

Although I am a supporter of the Sagebrush Rebellion, this bit of legislation would not benefit the state but only a handful of ranchers. A lot of Nevada's mineral wealth lies within the Checkerboard Lands. The Carlin District, Pinson District, and Rochester District would all be affected by this land deal. I, therefore, take a stand against the concept of selling public lands within the Railroad Checkerboard.

Sincerely,

Steven Berke
Land Assistant

SB/ms

cc: Senator Paul Laxalt
Room 315
Russell Office Building
Washington, D.C. 20510

Senator Norman D. Glaser
P.O. Box 1
Halleck, NV 89824

Lacana Mining
P.O. Box 1108
840 Matley Lane, Suite 5
Reno, Nevada 89509
(702) 329-5409

November 29, 1983

Senator Norman Glaser
P.O. Box 1
Halleck, Nevada 89824

Subject: Proposed Legislation to Dispose of Checkerboard Public Lands in Northern Nevada

Dear Senator Glaser,

Please be advised that I, on behalf of Lacana Mining Inc., joint venture partners in the Pinson Mine and 100% owners of the Relief Canyon Gold Property, am opposed to any legislation that would remove the checkerboard public lands in northern Nevada from public usage.

Both the Pinson Mine and the Relief Canyon Gold Property fall within the checkerboard lands. Per my below listed objections, it is highly unlikely that either of these properties could have been brought into production if the checkerboard lands were removed from the public domain:

1. The public checkerboard lands are currently accessable to mining and milling. Sale of the surface rights could, and would, eliminate room for milling facilities, waste dumps, etc. Mining of a mineral deposit would destroy the surface value of the now private land resulting in lawsuits:

   a) to protect the surface by the new owner; and
   b) to protect the right to the mine by the mineral owner.

2. Access to mining claims could be denied the claim holder by the new surface owner, leading to more lawsuits.

3. The federal government is already removing vast areas of potentially valuable mineral lands for wilderness areas. This proposed legislation would, undoubtedly, effectively add to this removal of valuable mineral lands. As you are aware a number of Nevada's richest gold mining districts already lie within the checker-board lands. Removal of more of this land will seriously hurt Nevada's mining industry, and hence, one of its important tax bases - not to mention employment opportunities.

4. By virtue of the checkerboard, Southern Pacific Land Company owns a huge swath of land through northern Nevada. While one would like to believe that the Southern Pacific Land Company would abide by the limits (2,560 acres) placed on individual purchases, it is not inconceivable that they would fill-in the alternate sections through proxy buying.

In conclusion, I must state that I consider this particular piece of legislation to be poorly conceived, and one which is not in the interest of the people of Nevada. I most sincerely trust that you will act on behalf of the responsible citizens of Nevada by opposing this legislation.

Yours very truly,

M. M. Easdon
Manager

MME:cs

cc: Mr. R. E. Warren, Nevada Mining Association, Inc.

NOV 3 0 1983

PLACER U.S. INC. *

November 28, 1983

Robert E. Warren
Executive Secretary
Nevada Mining Association
P.O. Box 2498
Reno, Nevada 89505

Re: Comment Concerning Proposed Legislation

Dear Mr. Warren:

Placer U.S. Inc. has reviewed the proposed legislation to dispose of checkerboard public lands in northern Nevada and can find no sufficient reason to offer any support. As your enclosed letter written by Mr. John C. Miller points out, there are several mining properties within the area that would be affected. How these will be affected is not predictable at present but it is a foregone conclusion this legislative proposal will create several foreseen and unforeseen problems. Clouding the title and creating expensive bidding wars among interested parties are just a couple of the foreseen problems. And as in most legislation, unforeseen problems will only come to light in a flurry of expensive and time consuming lawsuits. Not until these lawsuits are settled will the actual laws defining this proposal be established.

This increased uncertainty to a mining company's property and mineral rights cannot be welcomed. Especially in light of what the legislation is proposing to solve. The railroad is once again getting to keep its cake and eat it too. They get to keep their land while having someone else solve and pay for the solution to their problem.

We can therefore not support such a self serving proposal as this and find the status quo more acceptable than the proposed legislation.

Sincerely yours,

David P. Parker
Land Supervisor

* Three mines in Nevada: Mr. Dermott, Cortez NW of Ely (under development)

DPP:la

A subsidiary of Placer Development Limited
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(702) 738-8064

November 28, 1983

Senator Norman Glaser
Glaser Ranch
Halleck, NV 89824

Re: Railroad Checkerboard Through Northern Nevada

Dear Norman:

I am in receipt of the revised proposed legislation that would effectuate a land transfer between the federal government and the State of Nevada so that Nevada could sell such lands and create a fund to upgrade the entire rail corridor through northern Nevada. I have studied such revised proposed legislation and still have some concerns about such.

As you and I have talked, I personally believe the upgrading of the rail corridor through northern Nevada is an admirable goal, but I do have some questions about how it is presently proposed to be accomplished.

While your revised proposed legislation speaks to some areas, it does not seem to speak to those sections of public domain within the Railroad Checkerboard that are presently encumbered by existing mining claims. My concern is that a proposed land transfer of such encumbered parcels of public land would require either mineral surveys to correctly delineate the claims on such public lands or might invoke a wholesale review of such mining claims in an attempt to invalidate such. My concern is the same whether or not the entire section is covered by claims or whether a single claim resides in the middle of such public section.

In further looking at this potential problem, it would seem to me that some of the more valuable lands that may be sold to ranchers are also the lands that are most likely to contain mining claims. That is, the mountainous lands containing water and good vegetative cover are also the lands that contain the rock outcroppings and upthrusts in which miners and prospectors are interested. In following the Railroad Checkerboard from west to east, we find this potential problem in the Olinghouse area near Wadsworth, that area of the Checkerboard within the West Humboldt Range, near Golconda Summit, in the Emigrant Pass and Palisades area, in the Pequops, and near Montello. The lands that are least likely to contain mining claim are those alkali flat areas, principally between Fernley and Lovelock, that have also little

value for grazing purposes. It might be well before too much more effort is expended on this project to undertake a general survey of the lands that would be available, without the encumbrance of mining claims, to be sold. This could easily be done by obtaining the County Mining Claim Maps for the various counties and analyze the properties along the Railroad Checkerboard.

On Saturday, November 19, 1983, I attended a meeting of the Nevada Miners & Prospectors Association in Fallon. The Railroad Checkerboard plan was a topic of discussion. After discussing many of the problems that were related above, other ideas were expressed.

A group of the small miners and prospectors had some concern about the sale of Nevada lands to ultimately benefit the railroads. While I realize, of course, there is some benefit to the towns in question, there is no doubt that the Southern Pacific Railroad will receive a tremendous benefit. At the time of the railroad land grants the railroads were given the alternate sections in the Railroad Checkerboard to finance and maintain the Transcontinental Railroad. Thereafter, the Southern Pacific Transportation Company formed a new corporation called the Southern Pacific Land Company and put the Railroad Checkerboard lands in this different profit center. While the transportation arm of the Southern Pacific Company, like all railroads, is having its financial difficulties, there is no reason to believe that the land company arm of that giant corporation is unprofitable. There is some feeling that the Southern Pacific should sell off some of the lands to finance some of the construction involved. To do otherwise would be to circumvent the original intent of the railroad land grants.

There was another segment of the group that stated that the original state land grants from the federal government were designed to benefit the State education system, and as Nevada was short-changed at the time statehood was granted that some portion of the lands involved, if granted to the State, should be sold and the proceeds given to the University system. I deem this, of course, to be an admirable goal also.

An interesting twist of fate was brought up in that the Southern Pacific Land Company, still owning much of the Railroad Checkerboard, would be deemed an adjoining land owner and allowed to acquire more lands under preferential treatment. Along these lines, it was suggested by the Nevada Miners & Prospectors Assocation that preferential treatment be limited to no more than two sections for adjoining land owners. In addition, they believe that anyone owning a mining claim on a particular section of land should be granted the same status as a rancher and given preferential treatment for the acquisition of the section on which their claim or claims are located.

Sometime at your convenience I would like to discuss these matters with you. I have concern about the legislation as it presently stands but would be willing to work with you to see if some of these rough spots could be ironed out. I do not think the legislation is in a form at the present time that I can wholeheartedly support.

Sincerely yours,

JOHN C. MILLER

JCM:slt
cc: Chilton Engineering
Attention: Mr. Mark Chilton

Carlin Gold Mining Company
Attention: Mr. Ralph Mattson

Newmont Services, Ltd.
Attention: Graham Clark, Esq.

Nevada Mining Association
Attention: Mr. Robert Warren

Nevada Miners & Prospectors Association
Attention: Mr. Merl Richards
Mr. Frank Lewis

Citizens for Mining
Attention: Mr. Donald E. Smith

Cyprus Northumberland Mining Company

Route #2, Box 8A
Austin, Nevada 89310
(702) 377-2379

November 29, 1983

Senator Norman D. Glaser, Chairman
Senate Natural Resources Committee
Box 1
Halleck, Nevada 89824

Dear Senator Glaser:

The Cyprus Northumberland Mining Company wishes to go on record against the proposed legislation to convey federal public lands in the 40-mile wide Southern Pacific right-of-way across northern Nevada--the "checker-board" lands--to the State of Nevada.

Our objection to the proposal is based on the following reasons:

1. It would establish a precedent for other states to enact similar legislation to provide a means of financing a plethora of special purpose projects.

2. It would separate the surface and mineral estates, thus precluding patenting of mineral discoveries maturing into valid mineral claims.

3. For lands sold by the state to third parties, it would seriously complicate, if not preclude, millsite use of surface over a valid mining claim.

4. It would probably necessitate a mineral evaluation by BLM of all mineral claims located in sections to be sold--a staggering task for the available staff.

5. It would complicate and make more difficult the act of locating and exploring mining claims because the surface owner would object to the "trespass" upon his land. Similarly, any exploration or development of a valid mining claim could be delayed or possibly prevented by a surface owner seeking unreasonable compensation for damage to the surface.

We appreciate your efforts to obtain the opinions of Nevada mining companies, and this opportunity to express our views.

Yours very truly,

M M. McGee
Resident Manager

MMM:ph

The Standard Slag Company

GENERAL OFFICES - WESTERN DIVISION
POST OFFICE BOX 10477, RENO, NEVADA 89510

November 30, 1983

Senator Norman Glaser
P.O. Box 1
Halleck, NV 89824

Dear Senator Glaser:

I am writing this to express my opposition to the idea or concept of transferring to private ownership the so-called "checker board" sections along the Southern Pacific right-of-way.

In addition to the complex problems which could face the mining industry and others such as the ownership of mineral rights and access to other public lands, I believe this would be the wrong way to finance the elimination of rail crossings.

If the public wants the crossings changed with public funds, they should be willing to pay additional taxes to cover the cost, and should have the opportunity to express this desire by vote.

Selling a valuable public asset to finance such a project without approval of the public would be wrong. Senator, I urge you to do what you can to stop this legislation.

Thank you,

Yours very truly,

THE STANDARD SLAG COMPANY

John R Harmon

John R. Harmon
Manager, Western Division

JRH:mjf

NERCO INC.
111[illegible] COLUMBIA, SUITE 800
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NERCO

DEC 1 1 1983

December 8, 1983

Mr. Bob Warren, Executive Secretary
Nevada Mining Association, Inc.
P.O. Box 2498
Reno, NV 89505-2498

RE: Proposed Legislation to Dispose of Federal Lands in Northern Nevada

Dear Bob:

In response to your query, NERCO Inc. supports the Nevada Mining Association in opposing the proposed legislation to dispose of federal (BLM) lands in northern Nevada. While this legislation would not affect any NERCO properties directly, the proposed bill has several problems.

The bill proposes that the federal government convey its surface interest in lands within the 40-mile wide corridor (containing what formerly was the Central Pacific Railway), to the State of Nevada, which would thereafter sell this surface to private parties and use the receipts to eliminate railroad grade crossings throughout the State. This would be a great deal for the railroads — they would receive public funds to relocate and upgrade track. It could also amount to a full-employment program for Elko Engineering, as the Miller memo mentions. However, notwithstanding Section 7 of the proposed bill, a great deal of trouble for mineral owners could result from the new checkerboard of private surface owners and the varied uses they might wish to make of their respective surfaces. Further, without going into detail, Section 6(c)(4) is poorly drafted and fails to state clearly whether (a), (b), and (c) thereunder are the only qualified purchasers, whether these are merely preferred purchasers, whether some are preferred over others (e.g., adjoining railroad owners), or whether sales will be based upon competitive or noncompetitive bidding. It is not clear why one or the other is to be preferred. In short, the bill's goals are unclear. Beyond recognizing that multiple surface owners are bad news for mineral interests, it's difficult to determine what the bill achieves, if anything.

I hope this is of assistance to you.

Very truly yours,

Linda Netherton-Johnson

Linda Netherton-Johnson
Government Affairs Representative

LNJ/clf

PHILLIPS PETROLEUM COMPANY

8055 East Tufts Avenue Parkway, Phone: 303 850-3310
DENVER, COLORADO 80237

Minerals Group

FRED TERRY
General Manager
Alternate Energy Division

DEC 1 1 1983

December 8, 1983

Mr. Robert E. Warren
Executive Secretary
Nevada Mining Association
P.O. Box 2498
Reno, Nevada 89505-2498

Re: BLM Checkerboard Land Area, State of Nevada

Dear Mr. Warren:

Thank you for your correspondence dated November 14, 1983, informing us of the proposed legislation to dispose of "checkerboard" public lands surrounding Southern Pacific's right-of-way in northern Nevada.

We oppose this legislation because it could create new problems for the mining claim owners and lessees of federal mineral interests within the 40 mile corridor in question. The primary problems caused by the proposed act stem from the sale of surface rights to private owners which would result in difficulties for mineral owners in obtaining access to the subsurface minerals, increased development and operating costs, and the potential for legal nuisance suits brought by private surface owners.

Under the proposed legislation, the federal government would reserve the minerals. The sale by the State of Nevada of the surface to private owners other than to the railroad owning adjacent sections would not solve the "checkerboard" ownership problem. It would introduce many problems between surface owners and mineral developers who develop minerals under federal leases and mining claims. Further problems are introduced as to millsite claims which are basically surface use claims to process minerals. Under the proposed act, the mineral owners would be faced with uncertainty in being subjected to

bidding for the surface that they occupy or by paying the successful bidder for such land damages for surface disturbance in connection with mineral development. In reference to your question concerning Section 7 of the draft legislation, it is difficult to see how this section would solve all the problems discussed above.

We appreciate the opportunity to convey our comments to you on this proposed legislation.

Sincerely,

Fred Terry

FT:GMP:dlp

NEVADA MINERS and PROSPECTORS ASSOCIATION

Dec. 19, 1983

Norman Glazer - State Senator
Glaser Ranch
Halleck, Nv. 89824

RE Chederboard Land Sales.
Sales by State if they
can acquire land.

Dear Mr. Glaser:

The Nevada Miners and prospectors have considered some pending legislation which you are in charge of, and we have made resolutions supported by the Small miners which we would appreciate you read at your Next Legislative session, or incorporate at your study sessions. We would also like to have an opportunity to be present at any appropriate times you may hold hearings.

RESOLVED:

No one person should be able to acquire more than 640 Acres so the maximum number of Residents can participate;

Sales shall not be for less than $50 per acre (tied to cost of Living index;

Each 40 acres shall be sold by sealed bid seperately so that the maximum number of Nevada Residents can participate in land ownership;

All land sales shall be sold so that access is afforded neighbors along the easiest routes both to this land as it relates to adjacent parcels, and to others;

Sales shall be sold so that 10% is bid down, with 90 Days to pay the Balance;

All funds collected shall be given to the University and Community College Systems, with a percentage, Like 50% to remain in the Local county of the Land Sale for their College system.

Existing mining claims shall be determined, and the 160 acres where the mining claims are shall be considered mineral lands and not sold.

39-321 O - 84 - 10

The Nevada Miners and prospectors respectfully request that this resolution be incoroporated into any laws passed.

In our discussions we opposed the idea that the lands be given to a preferred group of adjacent land owners, who are the Railroads themselves in many instances. The Concept that the lands should be offered in such a way as to maximize the number of State residents who can bid, to encourage the ownership of property by the maximum number of people. Likewise, the asset should be sold so as to benefit the Colleges and the Citizens of the State, not a preffered group of land owners. Open public Bidding of limited parcel sizes seems to be a fair way to encourage land ownership, and to raise funds for our Citizens as a whole.

Sincerly, Nevada Miners and Prospectors Assocaition

Frank W. Lewis, Secretary

CC John Miller, Member, Nevada Miners and Prospectors Association, and Small Miner advocate on the State Minerals Commission

Nevada Mining Assocaition, Mr. Robert Warren, Executive Sectry.

Citizens for Mining, Mr. Donal E. Smith, President.

Rich Reyborn, State Minerals Commission, Director.

Ed Hollingsworth, Attry, and Mining Engieer, Reno, Nv.

NEVADA MINERS and PROSPECTORS ASSOCIATION

2-12-84

"CHECKERBOARD" LAND

PAGE 3 QUESTION 14 PURCHASER PREFERENCE

1....Mining claimholder...As they hold possession of the land now under the Federal 1872 Mining law.
2....Other...Anyone who has possession of the land under State law (Color of Title) and has been paying property taxes to the county, such as under NRS 326, or homestead.
3....Adjacent land owner... Except the railroad, including the Railroad Land Office, should be excluded from the opportunity to purchase as they now hold the majority of private land in this State just the same as the Federal Government holds the majority of public lands, making them both a monopoly on land.
If this can not be accomplished within law we suggest a one to five (1 to 5) section limit (section normal is 640 acres) to all adjacent land owners.
LIMIT meaning: Within the whole "Checkerboard" area of Northern Nevada.
4.... Grazing permit holder... With the same one to five section limit.
5.... Nevada residents... With the same one to five section limit. We also suggest a Nevada homestead law be enacted by the State Legislature for Nevada residents after the land has been turned over to the State.
6.... State
7.... Cities
8....Counties
9.... Utility Rights of Way
10....Communication sites
11....Historic preservation groups
12.... Developers....As last in preference with a one section limit.

*** Foreigners (non-citizens) Exclude from purchase. When and if they become citizens and are Nevada residents they will qualify under Nevada Residen
*** Native American court claims should be directed to the federal government on other than the "Checkerboard" lands.
*** Native American requests should come under the heading of Nevada residen along with every other resident. Indians should make individual request.
*** Only #1 and #2 have prior claim to the land. These lands should not be by bid. The State should determin the price per acre to charge.

In the proposed bill of "checkerboard land legislation" to provide for the orderly disposal of public lands in the checkerboard area of Northern Nevada we suggest a few changes.

No. 1... Sec.4.2... Remove comma. Insert and coal. Thus the words and other minerals, will be removed. Reason for change is when federal mineral patent is issued it is issued fee simple. When the State had issued a patent to private persons in past history it had done so by withholding minerals. Then court cases between the State and private persons changed this policy. Private persons were then able to purchase the mineral rights for 22¢ per acre, making the effect of a fee simple title. Present policy of the State is to sell lands fee simple. If at all possable keep in line with State policy.

No. 2... Sec.5.3... To read as follows: Establish an advisory board to help in the governance of the subsequent disposal or retention of the lands. Reason for the change is I believe the State should honor State history. From this date back to the birth of our State the Division of State Lands or an offshoot of State Lands has handled the sale of grant lands. The Division of State Lands have all the records from the start to the present time of state land sales. NRS 321.335 has been in use from 1957 to the present time. It says the State Land Registarar shall handle land sales. The only change that I can see that would benefit the people would to add a preference and set a price per acre for those that allready have claim to the land.

No. 3... Sec.6.(a)... Suggestion to the State is to reserve thirty (30) ft. on each side of all section lines (60 ft. total) on both kind of sales, private or government, along with lands reserved by the State, for future state and county roads as needed according to growth.

No.4... Sec.6.2 (a) Adjoining landowners: See Purchaser Preference under Adjacent Land owner... In addition to these limits I believe the State can and should exchange lands with the railroad if the railroad does not retain mineral rights to the lands they exchange with the state.

No. 5... Sec.6.2(c) Historical users of the land needs clarification. This could include hunters, horses, rock hounds and etc. I do not believe you are thinking of these kind of people or animals as historical users. I believe you are thinking grazing permit holders and people who have color of title under State law as historical users of the land. State legislation after the lands are turned over may be the best timing for clarification so as to not upset any special interest group. We suggest the State should retain lands for grazing leases as the State can make more money in the long run by leasing than by outright sale. These retained grazing lands should be kept open for mineral exploration and location.

Hill Cassas deLipkau and Erwin

LAWYERS

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TELEPHONE 303 893-2900

February 3, 1984

HAND DELIVERY

Mr. Robert E. Warren
Executive Secretary
Nevada Mining Association
One East First Street
Reno, Nevada 89501

Re: Checkerboard Lands
Our File M-245-83

Dear Bob:

A revised version of the subject bill is enclosed for your review and for consideration by the Association. This letter is to discuss what seemed to us to be the most significant provisions of the revised version.

As you can see, we have entirely reorganized the numbering system used for the various sections and subsections of the bill in the hope that a better numbering system will contribute to its clarity. In the discussion below, I will use the new numbering system and comment on the distinctions between certain portions of the revised version of the bill and the same portions as they appeared in the form of bill which you sent to us during November.

At various places in the bill, we have deleted wording which is either ambiguous or inappropriate in a legal sense. For instance, in Subsection 1(c) we have deleted the previous reference to "unreserved and unappropriated" public lands, since at least a portion of the public lands in question have obviously been reserved or withdrawn by Congress for particular uses as well as appropriated under the mining and other public land laws. Int he rest of this letter, I will make reference to such linguistic changes only if the change was made for a substantive legal purpose.

In Subsection 1(d), in order to accommodate the Federal Land Policy and Management Act of 1976 ("FLPMA"), I have added a recitation that "the public interest would best be served by a conveyance thereof to the State of Nevada rather than retaining the same in federal ownership. . . ." In Subsection 1(f), we have added a recitation that grade crossings "constitute a clear and present danger to the safety of the public. . . ." We have retained Subsection 1(g), although I do not believe it is necessary to the bill and was probably inserted to accommodate someone's special interest in the legislation.

We have made several substantive changes in Section 2. In Subsection 2(a) (iii), we have excepted from the definition of "Disposable Lands" valid subsisting mining, millsite, and tunnelsite claims. In Subsection 2(d), we have defined "valid subsisting mining claim" to be a mining claim containing a discovery as defined by the prudent man rule of discovery and without regard to the marketability rule of discovery. In Subsections 2(d) and 2(e), we have provided definitions of "valid subsisting millsite claim" and "valid subsisting tunnelsite claim" which do not necessarily comport with existing applicable law on the subject but which might be palatable to the mining industry.

We have also made several substantive changes in Section 4. Subsection 4(a) specifies that any conveyances to the State of Nevada shall reserve all presently "locatable" minerals, together with all associated rights of ingress and egress thereto and subject to the surface owner damage provisions of the Stockraising Homestead Act of 1916, including existing regulations promulgated thereunder. This would, of course, have the effect of limiting surface owner damages to crops, existing surface improvements, and grazing values. Hopefully, these provisions would also obviate the need for any further mineral operating regulations by the Department of the Interior.

Under Subsection 4(b), conveyances to the State of Nevada would also reserve "all other minerals," including the leasable minerals, together with associated rights of ingress and egress. For rights of ingress and egress, we have adopted the language used in the Multiple Mineral Development Act of 1954.

Under Section 5 and some subsequent sections of the bill, we have provided for the State of Nevada to meet its obligations through appropriate legislation, rather than simply by "agreement" with the United States. We believe that such a far-reaching "agreement" would certainly require legislation.

There is a rather significant change included under Section 9. As you can see, members of the mining industry who

holds lands adjacent to "Disposable Lands" would have a preference right to to acquire any Disposable Lands which might be disposed of by the State of Nevada. It seems that this would be very desirable from the standpoint of the mining industry, but could create political problems with agricultural interests. This is a stronger "preference right" than was included in the original bill.

Several terms in the legislation would benefit from precise definitions, but we have not had time to accomplish that task. In closing, I offer the observation that I believe <u>any</u> legislation of this sort would be highly objectionable to the mining industry, and I doubt that the mining industry could support such legislation in the form transmitted herewith or otherwise.

Kind personal regards.

Sincerely,

HILL CASSAS de LIPKAU AND ERWIN

By Earl
Earl M. Hill

EMH:km
Enclosure

3

PROPOSED BILL TO PROVIDE FOR THE ORDERLY DISPOSAL OF PUBLIC LANDS

IN THE "CHECKERBOARD" AREA OF NORTHERN NEVADA

A BILL to provide for the orderly disposal of certain lands in Northern Nevada.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED:

Section 1. The Congress finds that:

(a) During the 19th Century, grants of alternating sections of land along a line traversing northern Nevada were made by Congress to private entities in order to encourage the building of several railroads;

(b) As a result of these grants to private entities, the United States Bureau of Land Management now manages the sections of public land in a "checkerboard" strip of alternating public and private lands which is approximately 40 miles in width;

(c) These alternating sections of public land are difficult and uneconomical to manage as a portion of the public domain and are not suitable for management by a federal department or agency other than the United States Bureau of Land Management;

(d) It is no longer useful or necessary for the United States Bureau of Land Management to manage these alternating sections of public land, and the public interest would best be served by a conveyance thereof to the State of Nevada rather than retention of the same in federal ownership;

(e) The United States of America presently retains ownership of approximately 87% of the total acreage included within the State of Nevada, more than in any other state in the United States except for Aalska;

(f) Grade crossings of railroads in the State of Nevada are dangerous and disruptive to the development of commercial, agricultural, and urban interests and constitute a clear and present danger to the safety of the public;

(g) A project to eliminate such crossings by relocating railroads in Elko, Nevada has been heretofore funded by the Congress, and additional projects to eliminate such crossings should be funded for other urban areas of the state.

Section 2. For purposes of this Act:

(a) "Disposable Lands" shall mean all public lands which are owned by the United States of America and managed by the Secretary of the Interior through the Bureau of Land Management and which consist of sections in the alternating strip of public and private lands approximately 40 miles in width that is centered upon the former Central Pacific Railroad extending across northern Nevada, except such lands as:

(i) Are held in trust by the United States for the benefit of Indians or are included within Indian Reservations; or

(ii) Are located within national parks, monuments, forests, wildlife refuges, or similar reservations or withdrawals created by or under the authority of the Congress, or which have been acquired by Congressionally approved purchase; or

(iii) Are included within a valid subsisting mining, millsite, or tunnelsite claim entered and appropriated thereas under the authority of the General Mining Law of 1872, as amended and supplemented, 30 U.S.C. §§ 22-54 (1976).

(b) "Secretary" shall mean the Secretary of the Interior.

(c) "State" shall mean the State of Nevada.

(d) "Valid subsisting mining claim" shall mean any existing mining claim containing deposits of valuable minerals sufficient to justify a person of ordinary prudence in the further expenditure of his labor and means with a reasonable prospect of success in developing a valuable mine, without regard to whether or not such mineral deposits are marketable at a profit on the effective date of this Act or on any date after the effective date of this Act.

(e) "Valid subsisting millsite claim" shall mean any existing millsite claim which is used and occupied for mining or milling purposes on the effective date of this Act or within a period of 3 years thereafter;

(f) "Valid subsisting tunnelsite claim" shall mean any existing tunnelsite claim which was lawfully entered and appropriated as such and shall include all appurtenant rights to locate mining claims pursuant thereto.

Section 3. Within twelve months after the effective date of this Act, the Secretary shall submit to the Congress a full description of all Disposable Lands as defined above, including a description of all surface and subsurface improvements situate thereon, together with a full description of all public lands which do not constitute Disposable Lands as defined by this Act but which occur within the strip of alternating sections of public and private lands which contains the Disposable Lands.

Section 4. Within six months after the requirements of Section 5 of this Act have been met, the Secretary shall convey the Disposable Lands to the State. The patent confirming the conveyance:

(a) Shall reserve to the United States all minerals and mineral deposits which are now subject to entry and appropriation under the General Mining Law of 1872, as amended and supplemented, 30 U.S.C. §§ 22-54 (1976), together with all associated rights of ingress and egress thereto and therefrom which are provided for under the Stockraising Homestead Act of 1916, 43 U.S.C. § 299 (1976), such minerals and rights of ingress and egress and damages payable in connection with the exercise thereof to be as specified in said Stockraising Homestead Act and subject in all respects to existing regulations of the Secretary promulgated thereunder; and

(b) Reserve to the United States all other minerals which are now subject to the mining and mineral leasing laws of the United States including, without limitation, the Mineral Leasing Act of 1920, 30 U.S.C. § 181 et seq. (1976) and the Geothermal Steam Act of 1970, 30 U.S.C. § 1001 et seq., together with the right of the United States and its lessees, permittees, and licensees to enter upon the surface and to prospect for, drill for, mine, treat, store, transport, and remove such minerals and to use so much of the surface as may be necessary or desirable for such purposes.

Section 5. Before conveyance of the Disposable Lands to the State by the Secretary, the State shall pay to the United States as the purchase price therefor the sum of $2.50 per acre conveyed plus an amount equal to the fiar market value of any surface or subsurface improvements thereon, and shall adopt legislation satisfactory in form and content to the Secretary whereunder:

(a) All proceeds from the subsequent sale of the Disposable Lands by the State shall be held and used for the sole purpose of eliminating grade crossings of railroads in the State; and

(b) A board or agency of the State shall be established to manage the Disposable Lands; and

(c) The board or agency so established shall prepare, in cooperation with appropriate agencies and local governments throughout the State, plans or statements of policy concerning the use of the Disposable Lands; and

(d) Public comment upon the various matters addressed in a proposed plan or statement of policy shall be provided for throughout the course of its preparation, and any such plan or statement shall be submitted to the Secretary for his review prior to its adoption; and

(e) Procedures shall be established for preparing detailed statements on the potential environmental impact of any subsequent disposal by the State of the Disposable Lands, such procedures to conform substantially to the procedures which are applicable to major federal actions significantly affecting the quality of the environment under the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. (1976).

Section 6. The legislation adopted by the State under the provisions of Section 5 of this Act shall provide that the State shall not subsequently dispose of any of the Disposable Lands except by conveyance or other documents of transfer expressly made subject to all terms and provisions of this Act. In any such conveyance or other document of transfer:

(a) The State shall reserve such easements and other interests as may be necessary or desirable in order to insure public access across the lands transferred for the purpose of reaching adjoining lands; and

(b) The State shall reserve an easement for purposes of conservation which is suitable to protect or preserve the land transferred as open space and to protect or preserve any special characteristics of the land transferred in its natural state or any sites of particular historical or archeological interest thereon; and

(c) The State shall include such other terms and conditions as may be necessary or desirable in order to make the transfer consistent with the plans or statements of policy and environmental statements required by Section 5 of this Act.

Section 7. No single person, party, individual, company, corporation, or entity shall acquire from the State any interest in Disposable Lands which aggregate more than 2,560 acres.

Section 8. Any administrative or recording costs incurred with respect to any transfer of Disposable Lands by the State shall be borne by the purchaser thereof.

Section 9. Subject to the terms and provisions of this Act, the State may sell, exchange, or otherwise dispose of Disposable Lands under such procedures as it deems necessary or desirable, provided that the following parties shall be first notified of any planned sale, exchange, or other disposal and shall have the first and prior right to acquire the Disposable Lands in question in the order of preference indicated in this Section 9:

(a) The owners or operators of patented mining claims or of valid subsisting mining, millsite, or tunnelsite claims which adjoin the Disposable Lands in question; and

(b) The owners or operators of leases, permits, or licenses applicable to lands which adjoin the Disposable Lands in question when such leases, permits, or licenses were issued pursuant to the mining and mineral leasing laws of the United States referred to in Subsection 4(b) of this Act; and

(c) The owners of adjoining private lands which are otherwise used, occupied, or held for mining or milling purposes; and

(d) The owners of adjoining private lands which are used, occupied, or held for purposes other than mining or milling purposes; and

(e) Persons or entities who have historically used the Disposable Lands in question for grazing, agricultural, or other purposes under a colorable right or title permitting such use.

Section 10. All lands conveyed or otherwise transferred under the terms and provisions of this Act by either the Secretary or the State shall remain subject to any liens, encumbrances, or other rights existing on the effective date hereof which are not extinguished before the transfer including, without limitation, easements, servitudes, leases, and rights-of-way.

Section 11. The provisions of this Act, and any authorized action taken hereunder by the Secretary or by any other official or agency of the United States, shall not be subject to the terms and conditions of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. (1976).

TRANSPORTATION BOARD
RICHARD H. BRYAN, *Governor*, Chairman
BRIAN McKAY, *Attorney General*
DARREL R. DAINES, *State Controller*

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
1263 SOUTH STEWART STREET
CARSON CITY, NEVADA 89712

A. E. STONE
Director

February 1, 1984

IN REPLY REFER TO

PSD 1.06

The Honorable Norman D. Glaser, Chairman
Attention: Bob Erickson
Nevada Legislature's Committee
on Public Lands
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Senator Glaser:

In reference to your January 17, 1984 correspondence the Nevada Department of Transportation (NDOT) has reviewed the proposed Congressional Bill to provide for the orderly disposal of the public land in the "Checkerboard" area of Northern Nevada.

NDOT has prepared a position statement regarding the proposed legislation and a copy is attached for your review.

NDOT will present this statement to the consultant, Consensus, Incorporated, when contacted. If we can answer questions or provide additional assistance relative to this issue please contact this office directly.

Sincerely,

GARTH F. DULL
Deputy Director

GFD:WHH:bb

Attach.

NDOT position regarding the Proposed Bill to Provide for the Orderly Disposal of Public Lands in the Checkerboard Area of Northern Nevada.

The Nevada Department of Transportation (NDOT) has reviewed the Proposed Bill to provide for the orderly disposal of public lands in the Checkerboard area of Northern Nevada. The following remarks represent the position of NDOT relative to the proposed bill contained in correspondence from Mr. Robert Erickson to Mr. Garth Dull dated, January 17, 1984.

Comment No. 1 - Unlike the previous proposals dealing with the acquisition of public lands under the "Sagebrush Rebellion" involving a majority of BLM holdings, the Federal-State pro-rata highway funding ratio required to finance certain highway projects will not be effected. As long as the Clause B in Title 23 USC is maintained the matching ratio will remain unchanged and no additional State project money will be required. This position is based on the proposal to acquire 2.5 million acres.

Comment No. 2 - The sale of certain parcels without regard to future street and highway master plans whether, State or local, particularly abuting to communities, may require purchase of right-of-way heretofore obtained without cost. No official assessment of this condition has been attempted but the values may range from $100 per acre to $10 per square foot. Perhaps these concerns can be addressed within the intent of Section 4 part 3(a) and Section 6 parts 1(a) and 2(a) when the NDOT or other entity considering rights-of-way acquisition is or becomes the existing adjacent owner.

Comment No. 3 - The NDOT presently administers the Federally funded Section 203 Safety Program for rail-highway grade crossing improvements. This program has accomplished much previous activity associated with the provisions of this legislation short of major grade seperation projects due to limited funds and program language. I, therefore, recommend that the role of NDOT be expanded to incorporate this program too prevent duplication of efforts and provide the expertise and valid, qualified processes already in place at NDOT. The majority of the effected crossings are certain to involve Federal or State interest roads thereby necessitating NDOT involvement in any event.

February 4, 1984

Consensus, Incorporated
3785 Meadow Wood Drive
Carson City, Nevada 89701

Dear Pam and Susan:

Enclosed please find copies of various letters concerning the checkerboard boondoggle the Pershing County Sportsmen have sent to various agencies and individuals. Perhaps these and what follows will clarify how most people in Pershing County feel in regard to the checkerboard sell off and of the Nevada public lands sell off in general.

First of all, the sportsmen of Pershing County, as well as most of the county's population, favor the continued multiple use and retention of Nevada public lands in Federal ownership. As a whole, we, the occupants of Pershing County, are unable to compete with wealthy individuals, partnerships, trusts, and corporations who would buy up any and all public lands made available by legislative fiat, such as the checkerboard bill.

Several land purchases by such unconcerned, absentee landlords have already been made of private lands in our county. The owners show a marked non-interest in the properties which are substantial in size and take pp most of one of our most productive agricultural valleys. The humane society has had problems with them starving cattle. Land is left unplowed or exposed to erosion and weeds, and no interest is shown in ranching, the land's traditional use for generations.

We feel these examples occurring on already private land are exactly what would occur when public lands become private.

We have heard the argument that historical users and current landowners would be favored in any sales which some would use to justify the sales, saying current users would not be like absentee landowners who are concerned only about tax depreciation write off's. We feel, however, that the state of Nevada is being awfully naive in thinking the other 49 states and the other 232 million people are going to let Nevada's own citizens discriminate against everyone else in the country by allowing them preferences in any land sales. First of all, the 14th Amendment would preclude all of subsection 2 of Section 6 of the proposed bill.

The discriminatory nature of the checkerboard bill presents one huge problem for state and counties. Lawsuits would ensue immediately after the bill were enacted. We as state, county, and city taxpayers do not want to bear this burden to aid the special interest groups the checkerboard bill is designed for and by.

Numerous other justifications are made for the checkerboard bill. One is that the bill will allow the state to repair dangerous grade crossings. We are not convinced of the dangerous nature of them. The one listed for Pershing County has very little usage. We feel the grade crossings are not the legislative committee's real concern. We feel the crossings are the smoke screen that hides the true intent of the special interest group organizers and sponsors of the bill. (Please see the letter to the Committee.)

Also, we feel the checkerboard sell off is only the beginning of what the state wants and sets a bad precedence if it succeeds. Once the public lands sell off's begin, they won't stop until the big multinational corporations have the entire state.

We don't believe the state has the manpower, resources, ability, experience, expertise, or the strength to resist political pressure that are needed to be a good land steward. For example, in subsection (b) of Section 6, the State "may" retain an easement for conservation... . If they had any guts, they would have protected the multitude of non-special interest, low political power types like the majority of the people of Pershing County and would have said "shall."

If the lands are sold, "may" will become "won't," we feel. The reason for this is the state won't be able to resist the political pressure of influential senators, congressmen, lobbyists, and wealthy land grabbing companies and individuals who will demand total control over their new private land as they are accustomed to back in Texas and California.

As the state caves in to the power brokers, we little people are left stranded in the cities of the state unable any longer to hunt, fish, camp, prospect, graze cattle, observe wild horses, enjoy the outdoors, enjoy freedom of movement, or protect wildlife. We know the state has agreed to retain all lands that have wildlife, public use, or recreational values in state ownership. We just don't think they will have the guts to do this. The Federal government is having a difficult time keeping the lands in multiple use and we feel they would have the best chance of keeping them that way. The present land management system is working reasonably well and as Hughie Long said, "If it ain't broke, don't fix it."

We feel multiple use benefits Pershing County and probably all counties more than privitization would. The 2.5 million acres in question at this point in time have predominantly a low economic worth for an individual owner. Therefore, the taxes generated by private ownership (35% of the market value X a low tax rate) would be much less than the other values generated from the same lands. Think of all the money brought into the counties by hunters, trappers, fishermen, mining companies, oil companies, construction companies, off road enthusiasts, race car drivers, geothermal interests, campers, tourists, ghost town buffs, archaeologists, and many, many others and you can see what we mean. An acre of land to the state may be worth only $2.50. But to local economies it may be worth thousands or more, especially when the multiplier effect is factored in. Also, some small towns such as Lovelock, have very little in the form of recreation to attract new people or even to hold native residents. Outdoor recreation is perhaps the last resort small communities can use to attract new residents or hold native residents.

Also, we don't think the land or its wildlife is going to be cared for as well under state or private ownership as it would be under Federal ownership. This state cannot even keep the underworld out of gaming. How can it protect 49 million acres of land?

In conclusion at this point, we the Pershing County Sportsmen and probably most people of this county feel that privitization, the Sagebrush Rebellion, and now the newest wrinkle in the public lands swindle, the checkerboard bill, are diametrically opposed to what we want. We want Federal ownership, multiple use, the end of special interest group control, equal consideration given to all people of the state in legislative matters, and an end to the eternal manipulation of a land management program that is working fairly well.

Sincerely,

Marlowe Jevning

Marlowe Jevning
Pershing County Sportsmen's Association

January 19, 1984

Committee on Public Lands
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Sirs and Ms. Mayor:

We the Pershing County Sportsman's Association and other public land users were recently shocked and appalled by your proposed Bill to Provide for the Disposal of Checkerboard Lands in Northern Nevada.

We feel a bill such as this is symbolic of what happens when special interest groups band together to "represent?" the interests of "all?" state residents. One is almost reminded of Tammany Hall.

We, the general public, those people you have forgotten, hereby demand that this Bill be immediately withdrawn from any further consideration as it in no way reflects our best interests, better judgment, or common sense.

We realize that several livestock owners in Elko County, Chilton Engineering, and a few other "good ole' boys" will benefit highly from such a boondoggle. But unfortunately, 99% of Nevada's citizenry, the rest of us, will suffer by giving up a right we have had since 1861, the right of multiple use of the public lands of our state.

We know the purported intent of this bill is to make the railroad safer but we don't buy this crock. Also, we feel that there are many other ways to raise funds for such an endeavor if the need to redo grade crossings is proved. Frankly, we feel other projects would be of a higher priority if the state had the funds. We definitely feel that surrendering our rights to hunt, fish, camp, trap, prospect, and enjoy the public lands is much too high a price to pay to renovate railroad crossings.

To save the legislature and the state a lot of time, effort, and money, why not resolve at your next meeting to just let this bad piece of legislation die. It is our feeling that it will not pass scrutiny anyway when it reaches the state and/or Federal courts after the Nevada Outdoor Association files suit as we hope they will to counter this legislative error.

Even to a non-lawyer, Section 3 is highly discriminatory and deceptive. Land disposals will confer preferences on certain individuals like those ranchers in Elko County who would consolidate their holdings while keeping other buyers away. Current mine owners would be favored over aspirants. The word "may" in (b) of Section 3 should be "shall." These and numerous other faults would, we feel, result in the destruction of the entire bill.

In closing, we vociferously urge the Committee on Public Lands t[illegible]

the will of the silent majority. We demand that all public lands in Nevada, with the exception of a few acres adjacent to or in near proximity of cities, be kept public and administered by the Federeal government for multiple use. A few lands near the cities could be acquired for public use and should be only those lands the communities need for community purposes and would never be sold.

Sincerely yours,

Marlowe Jenning, Secretary
MARLOWE JENNINGS
Pershing County Sportsman's Association
Other Public Land Users

Time constraints prevent all of us from signing this letter at this time. If you would like a list of all recreational users of Pershing County public lands, please contact us.

ADDITIONAL PUBLIC LANDS CONCERNS OF PERSHING COUNTY

O apply to checkerboard land grab

Listed below are additional concerns of residents of Pershing County in regard to our public lands. We hope they and the concerns expressed by wildlife interests and sportsmen in the first two workshops will be included in the final plans and policies of land use in Pershing County.

1. For Livestock: One more concern we have is that buying up of Federal land will confer preferences on big money groups who will buy grazing lands that small and medium livestock owners cannot afford. Small and medium livestock companies will, because of privitization, lose their grazing privileges.

2. For Mining: Small and medium mining companies will lose out under privitization because mining lands currently open to all aspiring miners will be bought up by big mining companies.

3. For the general public: Current public lands in Pershing County will be bought by large conglomerates such as has been done in Buena Vista Valley if public ownership gives way to private ownership.

4. These large, absentee landlords do not care for the lifestyle of Pershing County and do not contribute anything but tax money to the county. They don't care about schools, roads, wildlife, grazing, mining, local politics, community affairs.

5. Another general public concern: People who illegally occupy public lands. Garbage, litter, and waste are left when they depart. Wildlife habitat is destroyed by their activities and the roads they leave expose wildlife to hazards such as poaching, overhunting, and overtrapping. Also, the illegal residents themselves are able to poach year around and they learn the habits of the game which confers a disadvantage on the species pursued.

6. Illegal occupants of public lands illegally remove or try to remove the general public from the public lands. Also, they place obstacles across roads on public lands, signs warning of blasting when no blasting in fact is occurring, no trespassing signs along public roads to discourage public entry, and do other things to illegally exert their control over public land.

7. People who illegally construct roads on public lands is another concern. The roads destroy important wildlife habitat(Pole Canyon-Eugenes, Spring Valley-Humboldts, Spaulding Canyon-East Range, Bonita and Woody Canyon-Eugenes). The roads also make wildlife too vulnerable to man and deprive them of sanctuaries..

8. People who reside on public lands under the protection of some legal waver must be checked to see they meet any qualifications to receive the legal waver.

9. The checkerboard concern-- The checkerboard bill will confer illegal privileges on individuals and may cost Pershing County money if a suit is brought by people who feel discriminated against.

10. Checkerboard bill will harm all citizens who are not part of the select group of preferred individuals listed in the bill. The general public who want to continue their use of the public lands will be prevented from doing so in any

cases by the special interest groups getting the land first. Livestock people, miners, recreationalists, and other traditional users of public lands will be harmed and their 14th Amendment rights will be violated.

11. Another concern is lobbyists who are paid by special interest groups to secure passage of legislation which benefits the special interest groups at the expense of the common people who cannot afford lobbyists.

12. Under state ownership, the lobbyists will be more of a problem because the legislation will have more control over the public land to entice the lobbyists.

13. State legislators, because of lobbyists, will be more apt to sell off more public lands than the Federal government will. The lands (the State) will go to special interest groups.

14. More of the general public benefits from public lands than do the special interest groups. (More people derive benefits.) Therefore, under a lobbyist-state instigated sell off, more Nevadans would be harmed than helped by the transfer of public lands to private ownership.

15. Last concern at this point: The sportsmen and wildlife interests are concerned that their interests and recommendations will be ignored or watered down by the State Land Use Planning Agency. We feel that because we advocate Federal control, the Agency may try to select for Pershing County policy only those recommendations from the workshop that advocate or support state control.

PROPOSED CHECKERBOARD LANDS BILL

DISADVANTAGES & WEAKNESSES

1. It's discriminatory.
2. It confers preferences on certain user groups at others' expense.
3. It threatens local economies.
4. It denies citizens their right to use the public lands.
5. It threatens multiple use.
6. It threatens land protection.
7. It threatens wildlife.
8. It may get state, counties, and cities into expensive litigation because of lawsuits brought by parties who feel discriminated against.
9. The bill is poorly written.
10. It does not have the majority of the state's peoples' support.
11. The bill is relatively unknown or publicized.
12. It establishes a bad precedence and could result in the entire state becoming owned by outsiders (conglomerates, insurance companies, investors, oil companies.)
13. It threatens all Americans' civil rights (due process, 14th Amendment, freedom of mobility, right to own land)
14. It jeopardizes a system that works fairly well (Federal multiple use.)
15. It gives that state bad publicity and makes Nevada look selfish.
16. It threatens recreation and the jobs derived there from.
17. It encourages political conspiracies.
18. The bill is deceptive. ("May" instead of "shall" is used in (b) of Section 3. And, railroad safety is the stated objective.)
19. Not enough preliminary work went into the bill to assess people's opinions, problems with the bill, or other alternatives to railroad repair financing.
20. The state's money is wasted trying to indoctrinate state citizens about the advantages of the bill.
21. State employees' attention is diverted from more useful endeavors by the time spent on the bill.
22. It does not encourage exploration of other means besides land sell off's to solve state problems.
23. The state will lose some PILT money if the bill passes. The revenue generated by the sales and subsequent taxes may be less than is lost from PILT and other multiple uses of the land.
24. The state would lose Federally-financed projects on public lands.
25. Lands addressed in the bill would be deprived of all the managerial, technical, and technological expertise of the Federal government as well as be deprived of the money needed in land management.

Water rights fight may scrub projects

CARSON CITY — The Bureau of Land Management may cancel building 34 small reservoirs in northern Washoe County for watering of livestock, wildlife and wild horses because of the growing battle over water rights in Nevada.

The fight is pitting ranchers against ranchers over whether the federal government should hold water rights in Nevada.

"This is building to a confrontation," says Ron Cleary, manager of the BLM in the Susanville, Calif., district.

A group of ranchers who hold grazing permits on the public lands in northern Washoe County joined with the BLM in applying to state Engineer Peter Morros for water rights.

The applications were immediately protested by an organization called Nevada Land Action Association, whose members are ranchers and whose executive secretary is Paul Bottari, also an officer in the Nevada Cattlemen's Association.

Bottari says the BLM is agreeing to many these improvements merely to gain more control over Nevada's stockwatering rights. Wrong. BLM always required water for all wildlife.

"BLM had coerced the operators into joint filings due to the fact that they (BLM) will not put federal monies into any water project they don't hold the ownership interest in," said Bottari in his protests.

"Again, it is a matter of a federal bureaucracy using our tax dollars to increase their control and give more security to longevity in their positions," said Bottari.

Cleary said he has set Jan. 6 as the deadline for him to make a decision whether to acquire the federal improvements, estimated to be worth about $80,000, because of the protests. Wrong.

"My ranchers are upset," said Cleary, referring to those who joined with the BLM in filing the water applications. He said they are members of a chapter of the Nevada Cattlemen's Association which now working against them.

About nine of the ranchers are based in California but have permits to graze their cattle in Nevada. The other two are in northern Washoe County.

A meeting is set for Thursday in Cedarville, Calif., between representatives of Nevada Land Action Association which is based in Elko and the ranchers who want the federal improvements.

Besides dividing cattlemen, the water rights issue has split Gov. Richard Bryan's administration and Attorney General Brian McKay.

See WATER, page 3C

Example of state-created obstacles to land development for the State's citizens

We operators & sportsmen want more co-operation by Nevada so Federal projects aren't lost because of childish fits & concerns by the state.

Rancher to let antelope reach food

CHEYENNE, Wyo. (AP) — A rancher agreed Friday to take down sections of a controversial fence that has kept an estimated 1,000 antelope from reaching an area where they can find food through the winter.

Rancher Taylor Lawrence, who said he built the fence on Red Rim to protect his cattle's grazing land from an overpopulation of antelope, agreed to let the state Game and Fish Department and federal Bureau of Land Management begin taking down sections immeadiately.

News reports about the Red Rim animals, among thousands of antelope searching for refuge and food throughout storm-struck southern Wyoming, sparked national interest and hundreds of telephone calls and telegrams to state, federal and private wildlife officials.

The Red Rim area, about 15 miles west of Rawlins, blown clear of snow, even in bad winters, so antelope can find sagebrush to eat.

Lawrence said it was Wyoming Gov. Ed Herschler, not the public outcry, who persuaded him to agree to lay down parts of the 26-mile, 5-foot-high wire mesh fence that encloses 26,000 acres of antelope winter habitat.

An unusually early, severe winter has hit the antelope in southern Wyoming with snow, cold and wind, and they have sought refuge in highway and railroad rights-of-way and even in Rawlins. Hundreds have been hit and killed, and the BLM reports many are weakened by hunger and the effort to get through

Special interest group vrs. public concerns (antelope)

Sportsmen are concerned that wildlife will suffer under privatization.

with Herschler and representatives of the Wyoming Wildlife Federation, Game and Fish and BLM for about 1½ hours.

Lawrence agreed to have sections of fence 100-200 yards wide laid down now and he put back up in the spring for grazing, Herschler said.

The hearing accused Lawrence of building the fence to keep antelope out and remove them BLM mineral leases to coal mining. But he maintained Friday as he has in the past, "I built it to protect my cattle operation."

Wyoming's antelope population has grown to an estimated 360,000, and Lawrence and other ranchers claim they are destroying range, despite Game and Fish contentions cattle and antelope eat different plants.

The wildlife federation had warned in October the fence might mean the death of many antelope. Lawrence said the animals would find winter forage elsewhere, but Game and Fish and BLM officials presented counts of animals "herded up" along the fence Friday.

Herschler said Lawrence was assured talks would continue with the wildlife federation and BLM on a possible compromise to allow surface coal mining of Red Rim, where Lawrence and the BLM own surface rights in alternating sections in a checkerboard pattern. When those talks resume, an energy company that owns coal under Lawrence's land, Rocky Moun-

private concerns diminish public values

Self-fishness vrs. altruism (private) (public)

multi-nationals
Congressmen
extremely corporate
and right wing support
railroad crossing companies

Sportsmen Sierra Club Audubon Nat. Wildlife Fed Defenders of Wildlife

★ main point ★
Wyoming's problem will now be Nevada's if the checkerboard bill passes

****

CHECKERBOARD DEAL

On a broader scale, a Nevada legislative committee is swiftly moving to finalize proposed federal legislation to enable the State to acquire over 3,000,000 acres of "checkerboard" public lands from the Federal Government, along Interstate-80 in northern Nevada.

The US government in the 1800's granted to the railroads alternating sections of land 20 miles on each side of the railroad right-of-way to encourage the building of railroads and the settlement of the West. The Bureau of Land Management has found management of the checkerboard lands difficult. The railroad has sold over 60% of its checkerboard lands to private owners and the BLM has blocked up some areas into public ownership.

Nevada proposes to buy the lands for $2.50 per acre, retain some lands for state parks and wildlife refuges, and sell the rest to raise money to eliminate grade crossings of railroads in Nevada which it claims are dangerous and disruptive to the development of commercial, agricultural, and urban interests. A "Property Board" will decide which lands are retained, the price and terms of lands which are sold, who gets priority in buying lands, etc. The State considers its proposal a pilot project for eliminating checkerboard lands all over the West.

Chilton Engineering of Elko, is spearheading this initiative based on its successful experience in relocating the railroad tracks through Elko with federal funding.

Nevada miners are not supportive of the proposed legislation. While the bill proposes that all minerals rights will be retained by the Federal government and therefore mineral exploration will continue, miners are worried that purchasers of checkerboard sections will object to surface mining disturbances and mill sites or require sufficient remuneration to cover mining uses or damanges on their private property. According to Bob Warren, Executive Director of the Nevada Mining Association, miners are better off under existing federal ownership of public lands.

While the Sierra Club supports the resolution of checkerboard land management problems and did participate in an ad hoc subcommittee of the State Public Lands Committee to work on this legislation, the Chapter continues to oppose this legislative solution for several reasons:

1. The benefits of raising funds to eliminate grade crossings in Nevada do not appear to outweigh the loss of over 3,000,000 acres of public lands to all citizens of the United States. Instead the legislation appears to be an end run to carry out at least a part of the unsuccessful $agebrush Rebellion attempt to gain control of all BLM lands in Nevada.

2. Too much is left up to a Property Board, which is not

described. Who will be on this Board? Will it represent all interests?

3. There are too many practical problems left unaddressed by the bill under consideration. Where will the State come up with $2.50 per acre for 3,000,000 acres? Many of the checkerboard lands, such as those in alkali flats along the railroad, are not worth the price of the appraisal. Who will pay for the appraisals of over 3,000,000 acres? Can the State afford to manage these lands, i.e. who will put up fire-fighting costs? How will wild horses be managed - will they all be eliminated from checkerboard private lands? The budgets of State Parks and the Department of Wildlife are strained to cover the costs of the lands and programs they currently administer. Unless operating costs are an ongoing part of the land sales, how will these state agencies be able to afford to take on any new management responsibilities?

The Toiyabe Chapter has suggested several ways to improve the proposed legislation:

1. Any funds generated from the sale of checkerboard lands as well as all lands acquired from the federal government should be used for other public purposes, such as acquisition or exchange of sensitive lands in other parts of the state, as well as the elimination of at grade railroad crossings.

2. The membership, method of selection, and responsibilities of the Property Board should be specified in the legislation.

3. More time and effort by all interests are needed to iron out some of the details which are preventing a general consensus on the proposed legislation. With the miners and the environmentalists opposed or lukewarm, the prospects for passage of such a bill through Congress are not good. More work needs to be done now, not after the bill is introduced.

If you are interested in getting more involved in any of these public lands issues, contact the Toiyabe Chapter.

NEVADA'S CHECKERBOARD LAND
FOR
PUBLIC SAFETY

TRUSTEES:
MARK CHILTON
Elko
NORMAN GLASER
Hallock
KAREN RAYES
Las Vegas
RONALD M. KRUMP
Reno
WAYNE MARTENET
Elko
ROBERT F. ROSE
Reno
FRANK E. SCOTT
Las Vegas

421 COURT ST.
ELKO, NEVADA 89801
(702) 738-2121

February 14, 1984

Concensus, Inc.
P.O. Box 50460
Reno, Nevada 89513

Att: Pam Cosby - Susan Lynn

Dear Pam & Susan:

Returned herewith is the questionnaire forwarded to me for my response. I have enclosed some copies of pages from texts and reports as additional information to support 2 important points of the proposed legislation.

1. That Congress had indeed, in the past, recognized the value of land grants to the various states for the purpose of transportation mode improvements and development. It now seems more than appropriate for Congress to recognize the need for granting the Checkerboard Land to the state of Nevada who would be willing to utilize the funds totally for the elimination of the hazardous railroad grade crossings that threaten the safety of each and every one of us and our loved ones. The brief history on transportation land grants was copied from a publication of the BLM.
2. The Federal Government has recognized the need to assist the states in eliminating railroad grade crossings utilizing federal funds rather than expecting the states to be able to solve the problem on their own. I have noted on the copy of the Railroad-Highway Accident Report of the freight train and school bus collision where the National Transportation Safety Board has supported this position and that the Dept. of Transportation seek legislation which would extend the use of federal funds now available for grade crossing safety and improvements to include railroad-highway grade crossing on other than federal highways. I believe the proposed bill introduced to congress by Nevada, poses a unique approach to providing necessary funds without utilizing tax dollars and would be welcomed by congress and pursued ambitiously through its passage.

Yours truly,

MARK CHILTON

Encls.
CC: N. Glaser w/encls.

MC:lb

CHECKERBOARD LAND BANK FOR PUBLIC SAFETY
Panel Participation by Nevada W.F.

January 27, 1984

In speaking on behalf of the Nevada Wildlife Federation I must first qualify that our organization has not taken a position on SJR 14 although it has been discussed at length. The general feeling is to oppose the proposal. The subject will be reviewed at our annual meeting in February - what the outcome will be, I can't predict.

There has been no identifiable disadvantages to wildlife interests under the present management of the checkerboard lands, therefore, positive provision for perpetuating wildlife values and providing for continued recreational use have to be incorporated in the implementation of SJR 14 or the sportsmen will loose.

The Nevada Legislature's Committee on Public Lands in meetings on moving the intent of SJR 14 to Congress has sought out the interests and concerns of those in attendance even-though SJR 14 does not require that. We appreciate the opportunity they have provided.

Further we recognize, that in the event the proposal passes Congress, that our main thrust of assuring that wildlife interests are served rests with the State Legislature. To add impetus to wildlife being recognized there are several amendments to the "Proposed Bill" that are needed. But first another concern.

In accordance with the proposed bill, the Secretary after submitting to Congress a description of all affected lands, will convey to the State all right, title and interests of the United States in the affected lands. From that point forward the State assumes the responsibility for and the obligation to manage the affected lands - at a cost. The need for funds to support ownership of these lands starts immediately, with income from sales to come later. The checkerboard lands therefore have the potential of being an economic burden on all the public. In the discussions to date, lands having public value would be retained in state ownership. We support this procedure, and in doing so realize that thereafter top value must

be received from the remaining lands that are to be sold to meet the objective of providing safe railroad grade crossings.

As the State will pay fair market value for any improvements on the affected lands, we feel that the selling price must cover the State's obligation in buying the land initially, administering it and all other costs. If the State does not receive top dollar for the lands that are sold, then the net result could be to subsidize the adjacent and historical land users if they obtain the parcels at a low cost.

I do not feel that the Nevada Wildlife Federation would support a program that would result in subsidizing certain interests when that program could result in a reduction or loss of wildlife values.

Now as for the suggested amendments to the "Proposed Bill." Based upon past discussions, it is advisable that it be clearly identified that the intent will be to retain in State ownership, affected lands having public values. Therefore, Section 5 should be amended by replacing sub-section 2 with a new sub-section taken inpart from 3 declaring that a board having equal representation of all necessary interests (and specifying these interests) will be established and that the board would receive an inventory of resources contained within the affected lands and will develop plans or statements of policy concerning

1) the retention of lands having public values; and

2) the disposition of all other affected lands.

The remainder of old sub-section 3 paragraphs b and c would then follow.

A new sub-section 3 would agree to use the net proceeds from any subsequent sales for the purpose of eliminating dangerous grade crossings after funding the cost of administrating the affected lands pending disposition.

In section 6, paragraph (a) needs strengthening and clarification. It would best read something like the following "The state shall reserve interest in affected lands having public values such as archeological, historic, park/scenic, and wildlife; and shall require easements as are necessary to ensure public access to affected lands upon disposal, and to adjacent federal lands."

And lastly, we would add a sub-section 3 to Section 6 addressing the issue of obtaining the highest monetary return from the affected lands to carry out the purpose of the act and to provide funding for the administration of the lands.

It is obvious that the simple direct purpose of SJR 14 is wrought with many complex problems or hurdles. As has been said several times, these lands are within a communication corridor that has been used for over 100 years. The corridor contains valuable and watered lands containing many values and are the focus of diverse interests.

We must also bear in mind that other western states still have similar checkerboard lands, and they would have interest and concern in the proposal. Because of those western ramifications, it may be that the National Wildlife Federation will become involved and establish a position. This would have considerable bearing upon Nevada Wildlife Federation as an affiliate of National. Therefore, we will be watching the progress of the "Proposed Bill" and particularily its content.

RESOLUTION NUMBER 8

Adopted as Amended 2/11/84

NEVADA WILDLIFE FEDERATION
Carson City, NV
2/11/84

RESOLUTION ON CHECKERBOARD LAND LEGISLATION

WHEREAS, the state of Nevada is proposing national legislation to authorize the purchase from the federal government of approximately 2,500,000 acres of checkerboard land along the I-80/railroad corridor;

WHEREAS, Nevada claims the checkerboard lands are difficult and uneconomical to manage, and no longer useful or necessary for BLM to hold these public lands,

WHEREAS, Nevada proposes to sell or dispose of the checkerboard lands and use the proceeds to eliminate dangerous railroad grade crossings,

WHEREAS, Nevada will not require fair market value as a condition of sale nor will lands be available to any willing buyer;

WHEREAS, Nevada will establish a "board" to oversee the management of the checkerboard lands, but has not indicated whether its membership will represent all multiple users;

WHEREAS, Nevada has not addressed many practical problems involved in the legislative proposal, including the source of revenue to purchase over 2,500,000 acres at $2.50 per acre and to pay for appraisals, surveys, and sale costs, the source of revenue to manage the checkerboard lands, such as firefighting expenses, operations and management expenses for additional state parks and wildlife refuges, etc.;

WHEREAS, Nevada contends that the requirements of the NEPA do not apply to the conveyance by the Secretary to the State.

BE IT RESOLVED, that the Nevada Wildlife Federation is opposed to the proposed checkerboard legislation, ~~in its present form for the following reasons:~~

~~1.~~ The benefits of raising funds to eliminate ~~grade~~ crossings in Nevada do not appear to outweigh the loss of over 2,500,000 acres of national resource lands.
2. Too much is left up to a "board" which is not described, including the decision of requiring or not requiring fair market value as a minimum purchase price.
3. There are too many practical problems left unaddressed by the proposed legislation, including the source of funds for purchase, sale, and management and operations of new state parks and wildlife refuges.

proposed amendment Heard. To have replaced ~~the first following in its present form for Be~~ the "Be It Resolved" and all following

4. The conveyance of over 2,500,000 acres to Nevada is obviously major federal action whose impacts must be studied in an EIS.

BE IT FURTHER RESOLVED, that the Nevada Wildlife Federation urges the draft legislation be modified to address stated concerns:

1. Any funds generated from the sale of checkerboard lands as well as the lands retained in state ownership should be used for other public purposes, such as the acquisition or exchange of sensitive lands in other parts of the state, as well as the elimination of any dangerous at grade railroad crossings.
2. The membership, method of selection, and responsibilities of the "board" should be specified in the legislation.
3. More time and effort by all interests are needed now to resolve remaining problems which are preventing a general consensus on the proposed legislation, not after the bill is introduced.
4. All requirements of NEPA shall be met.

NOW THEREFORE BE IT RESOLVED that the Nevada Wildlife Federation in annual meeting assembled February 10-12, 1984 in Carson City, Nevada finds that it is opposed to the proposed bill to be considered by Congress in its present form and should be amended to include the following points:

1. That the board to be established will have equal representation of all necessary interests including those of agriculture, conservation, mining, recreation, and wildlife.

2. Require that the board receive from appropriate state agencies and local governments an inventory of resources within the affected lands and prepare plans concerning first the retention of lands having public values and then for the disposition of all other affected lands.

3. Provide that the net proceeds from any sale will be used to eliminate railroad grade crossing after funding the cost of administering the affected lands.

4. That the State shall reserve interest in affected lands having public values such as archeological, historic, park/scenic and wildlife; and shall require easements as are necessary to ensure public access to the disposed lands.

5. The method of disposal shall be one that results in the highest monetary return possible to enable carrying out the purposes of the bill and provide for the administration of the lands pending final disposition.

Appendix F

ISSUES REGARDING

CHECKERBOARD LAND TRANSFER PROPOSAL

Nevada Railroad Checkerboard Land Committee

Goal: To draft consensus legislation to resolve the railroad checkerboard land problems and public safety problems

Suggested Committee representation:

Federal: Dept. of Agriculture--Forest Service
Dept. of Interior--Bureau of Land Management
Dept. of Transportation

State: Dept. of Wildlife
Dept. of Minerals
Dept of Conservation and Natural Resources (Director, state lands, parks, historic preservation, water resources)
Dept. of Transportation
Legislature (Public Land Committee or staff representative)

Local: Nevada Association of Counties (or individual counties)
Nevada League of Cities (or individual cities/towns)

Private: Mining
Ranching
Farming
Railroads
Real estate appraisers

Conservation or Citizen groups
Sierra Club
Audubon
Wildlife Federation
wild horse groups
Trails West (historic trails)
Nevada's Checkerboard Land for Public Safety

Issues:

1. Split property rights--mining, grazing permits, recreation etc.
2. All checkerboard lands--Forest Service and BLM)
3. Method of financing
4. Determination of fair market value
5. Determination of purchaser preference--if any
6. Continuing public access
7. Historic trail along the Humboldt
8. Setting railroad crossing priorities
9. Recipients of sale benefits (other than railroad crossings)
10. Categories of lands
    a. Federal or state reservations
    b. Exchangeable lands
    c. Highly valued lands
    d. Ranching/mining
    e. Community expansion
    f. Unuseable lands
11. State process for purchase/sale/transfer

Issues (continued)

12. Methods for funding/expenses for board or committee (i.e. trust fund, interim financing by legislature or committee on public lands, contributions by all parties?)
13. Sunset of committee
14. Public involvement process
15. Continuity of current grazing/mining permits
16. PILT monies
17. Windfall profits for purchasers
18. Board or Committee structure for duration of project (to succeed Nevada Railroad Checkerboard Land Committee for implementation stage)
19. Operation and maintenance funds for newly acquired state lands

NOTE: Additional issues may be added at a later date by agreement of the parties.

ELMO J. DeRICCO, Chairman
NORMAN S. HALL, Vice Chairman, Secretary

Address Reply to
Nye Building, Room 216
Carson City, Nevada 89701
Telephone 883-7482

PAUL LAXALT
Governor

COMMITTEE MEMBERS
STANLEY C. ELLISON—Woolgrowers
PAUL GEMMILL—Mining
GEORGE E. HARRIS—Education
SAMUEL G. HOUGHTON—Recreation
WILLIAM MACDONALD—
City and County Government
JOHN MARVEL—General Public
DR. ROBERT V. BROADBENT—Fish and Game
ELWYN TRIGERO—Banking
PETER E. MARBLE—Livestock
CARL SODERBLOM—Railroads
ROBERT F. THOMAS—Agriculture

STATE OF NEVADA

State Committee on Federal Land Laws

CARSON CITY, NEVADA 89701

April 24, 1970

NEVADA'S REQUEST FOR AN ADDITIONAL LAND GRANT

by
Elmo J. DeRicco, Director
Department of Conservation and Natural Resources

To fully understand Nevada's request for an additional land grant it is necessary to acquaint you with the background of this program.

Its inception commenced with the creation of the State Committee on Federal Land Laws as provided for in A.B. 152 during the 1965 Session of the Nevada Legislature. This legislation provided for a committee composed of eleven members representing:

Banking - Elwyn Trigero
City and County Government - William Macdonald
Woolgrowers - Stanley C. Ellison
Livestock - Peter E. Marble
Fish and Game - Dr. Robert V. Broadbent
Mining - Paul Gemmill
Agriculture - Robert F. Thomas
Education - George E. Harris
Recreation - Samuel G. Houghton
Railroads - Carl A. Soderblom
General Public - John Marvel

The Director of the Department of Conservation and Natural Resources was designated Chairman of the Committee and the Assistant Director of the Department was designated Secretary.

The Committee was charged with the responsibility of:

"Representing and enunciating the State of Nevada's position on public lands with other western states and before the Federal Land Law Review Commission."

For those of you who have not attended meetings of the Committee regularly, it would be difficult to appreciate the extent of the effort that has been exerted on this most important program. The State of Nevada has provided the Committee with funds throughout the time since its creation. But these funds have paid only a fraction of the cost of the effort dedicated to this program. Industry, individuals, the University of Nevada, State agencies, such as the Fish and Game Department, the State Highway Department, State Tax Commission, the Division of Parks and of Water Resources of the Department of Conservation and Natural Resources, and other State organizations have contributed extensively to the progress of this program.

In addition, consultants have been used to develop data which were not available through any other source. The Committee worked continuously, then met monthly in order to develop objectives on which the State could establish a position. A multitude of matters being considered by the Federal Commission has been reviewed.

By the time of the 1967 Session of the Nevada Legislature, the Committee's work had progressed to a point which enabled the Legislature to establish a broad position on public lands. This was done by the passage of A.J.R. 10.

I would point out that A.J.R. 10 was discussed in detail at several of the meetings of the State Committee on Federal Land Laws. It was circulated widely for information and comment by individuals, departments, and associations who would be affected, and by many agencies of the State government.

Item 3 of A.J.R. 10 provided for a request for an additional land grant.

At the 1969 Session of the Nevada Legislature, the eleven points expressed in A.J.R. 10 were refined and additional points were added to reinforce our initial position. Consultants were employed to review Federal Commission reports and to provide additional data in an effort to substantiate our initial findings.

Again, in the 1969 Session of the Nevada Legislature, A.J.R. 36 reaffirmed the State of Nevada's position on Federal lands and added additional points. This resolution passed both houses of the Legislature and was signed by the Governor without objection from any quarter.

Because today we are discussing one point in these Resolutions I would like to read Section 3 of A.J.R. 36 to you:

"3. The Public Land Law Review Commission must recognize and make proper recommendations to the Congress concerning the unique land characteristics of Nevada and the unworkable general land laws. Nevada is still 86.8 percent Federally owned. Five out of 17 counties in Nevada are more than 97 percent Federally owned. Land grants to the State totaled 3.8 percent, railroad grants totaled 7.3 percent, and only 2.1 percent moved from Federal to private ownership under the General Land Laws during the past 105 years. More land has moved from railroad ownership into private individual ownership than through Federal land sales. A realistic and practical Federal land disposal program must be found by the Commission which will provide equity under the unique conditions of Nevada. An equitable solution would be an additional land grant to the State for the benefit of Common Schools."

Incidentally, Nevada was originally granted the 16th and 36th sections in each township. These sections could be deeded to Nevada and sold to private investors only after being located by surveys. Such surveys were long in coming. In many cases these sections were located on dry or rocky ground and were barren and almost worthless. In the 16 years from 1864 to 1880, only 72,478 acres of the original 3.9 million acre grant had been sold. This situation led Nevada to propose that the sections 16 and 36 grant be exchanged for two million acres of land to be selected. This trade was approved by Congress. Practically all of this land has been sold. Since the physical conditions in Nevada have not changed in the past 100 years any new land grant should be on the same terms as the two million acre grant.

In February of 1970 the State of Nevada, with the assistance of consultants, prepared a request to the Public Land Law Review Commission for a 6,205,522 acre land grant. Copies of the request are available to those of you who may be interested.

I should point out that this Request took into account the economic impact of a grant to the State of Nevada. Since Nevada received Federal funds for road building, the impact of reduced Federal funding due to a reduction in the area of Federal land would be felt most strongly in this operation. Data furnished by the State Highway Department indicates that the requested grant of 6 million acres would result in a reduction of about $500,000 annually in Federal highway funds. However, the sale of 500,000 acres of the 6 million at $20 per acre would bring in $10 million. At 6% interest this returns $600,000, and offsets the loss of Federal Highway Funds. We feel that the estimated price per acre and the estimated interest rate are most conservative.

The Summary of the Request sets out restrictions and provisions which should be considered in the Federal legislation. To us today, the most important of these features of the Request are:

(1) Before any land could be selected by the State, the Nevada Legislature must authorize a land use planning program to identify those lands most valuable for non-federal ownership The planning process must have the assistance and the concurrence of local and county governments. By this means, compatibility of the State plan and the plans of the local and county governments will be assured. The plan must recognize those lands most valuable for permanent State ownership, such as key wildlife, recreation, or ecological areas. All lands selected for permanent State ownership must provide for the preservation and/or enhancement of the environment.

(2) After approval of the plan by the Nevada Legislature, those areas considered best suited for private ownership shall be sold through public auction. Funds received would be deposited in the Permanent School Fund for the support of Common Schools.

(3) The type of land to be selected within the State is any land best suited for non-federal ownership as determined by the State plan. It is understood that the plan will avoid selection of any lands needed for the national welfare. In many instances the enhancement of the environment and the preservation of the ecological balance can be best accomplished through non-federal ownership. In this manner, state and local people will have a strong hand in controlling their own environment and destiny. For simplicity in operation and efficiency of management, fee simple title is requested with no reservations.

(4) We would suggest a realistic time limit of at least 20 years to complete the total program.

I want you to note that the State Committee, in order to ensure complete equity in this matter, has requested the Federal government to impose these severe restrictions on the State of Nevada if a land grant is authorized.

In addition, the Committee has suggested additional restrictions to be considered by the Nevada Legislature if the land grant is authorized:

(1) Some type of acreage limitation on individual sales

to prevent speculation and to ensure the highest and best use of this land.

(2) With concurrence of local government and their zoning, areas would be identified as suitable for sales as homesites to individuals for rural living environment.

(3) Intensive land use planning must coordinate with State water planning, park and recreation planning, fish and wildlife planning, environmental planning, and Federal land managing agencies' planning, to ensure compatible total resource planning.

You can readily see that this request for a grant is not intended to be a rash land grab for the purpose of selling to the highest bidder to make money without consideration of the consequences.

As Director of the Nevada Department of Conservation and Natural Resources, and under existing laws, I am the Nevada State Land Register, responsible for the sale, administration, and/or retention of all State lands within the State of Nevada. I can assure you that in light of past experience on State land grants, I, or my successors, will do nothing to make life impossible for ourselves.

If the grant from the Federal government becomes a reality it then becomes necessary for the State of Nevada to establish machinery which will permit the selection of lands. This can only be done through legislative action.

First we must have an indication from the Congress that it would be receptive to granting the State of Nevada additional lands and we must be aware of the controls and conditions Congress would impose on such a grant.

It would then be necessary for us to go before our own Legislature and request legislation to implement the selection program. Implementation would include funds to develop a comprehensive state-wide land use plan.

Any legislation must have the blessing and concurrence of state and local governmental agencies responsible for the development, administration, and management of State lands and it must conform with the interests and desires of the citizens of the State of Nevada.

If you were to ask me today what this legislation should provide, I could not answer you, even though I may have thoughts on its provisions. Before any legislative request could be finalized, local government and the public would have to provide input which would assure that any legislation would provide for equity, efficiency, and the best interests of the public.

Many people have the impression that if the grant is authorized, we would immediately start selecting lands, and that those lands would immediately be placed on the auction block for sale to private interests. Nothing could be further from the truth. The intent, with Congressional approval of course, would be to select lands only when they are identified and we are prepared to manage and use them as provided for in the land use plan.

Earlier in my discussion I stated that a land use plan must be developed before any lands are selected. This plan must recognize areas most valuable for permanent State ownership, such as key wildlife, recreation, and ecological areas, and that all land selected for permanent State ownership must provide for the preservation and enhancement of the environment.

I also said that those areas determined to be best suited for private ownership shall be sold through public auction. I want you to think briefly on the magnitude of the problem. The areas for specific purposes must be identified through the planning process, with the assistance of Federal, State, and local planning agencies. After the areas have been identified the plans for their use must be concurred in by these same Federal, State, and local agencies. Granted that planning funds are provided by the Legislature as needed, we estimate that this planning procedure will take at least three years.

I feel strongly that before one acre of land is selected, the State Legislature should approve the land use plan and authorize the State to select the lands. Not only should the public be offered an opportunity to enter into the planning process, but it should be given the opportunity to express its opinions and thoughts before the Legislature.

The figure 6,205,522 acres is blazed indelibly on everyone's mind who considers the grant. I should hasten to point out that this is the figure derived by our consultants for the purpose of substantiating our request to the Public Land Law Review Commission and the Congress. We, you, or anyone could have an idea as to whether this is too many acres or not enough. Only land planning will determine precisely how many acres in total would be right and how many acres should be set aside for each proposed purpose.

Last, but not least, an additional grant to the State of Nevada, if properly planned, administered, and managed, will do more to preserve our integrity as a State than anything that has been done since we entered the Union.

It will provide us with the opportunity to secure for future generations, recreation, wildlife, and ecological areas which are best suited for management by State and local government.

It will provide us with an opportunity to expand our land-locked cities in an orderly manner on a planned basis, without adverse affect on the existing economy of local areas.

The funds derived from the sale of lands will provide our distributive school fund with an additional source of revenue, and thus relax the burden on our tax dollar.

We are confident it will develop the best coordinated land use program between federal, state, and local governments that the Nation has ever seen.

We honestly believe that an additional land grant to the State of Nevada will provide the citizens of the State with unprecedented opportunities to improve the social and economic well being of their own State, and the Nation.

If we did not strongly believe this, we could not support the request for a grant. But we believe that such a grant will give the people of our State a greater opportunity than they now have to guide their own destiny and elevate their social and economic well being. If in the end it does not give the people of our State a greater opportunity to guide their own destiny and elevate their social and economic well being, it is not worthy of consideration.

* * * * *

NEVADA MINING ASSOCIATION, INC.

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June 20, 1984

Honorable Chic Hecht
United States Senator for Nevada
302 Hart Building, Suite 14
Washington, D.C. 20510

Attention: Dan Freihofer, staff of Senator Hecht
Tony Bevinetto, staff, Senate Subcommittee on Public Lands and Reserved Water

Re: Transfer of Nevada "checkerboard lands" to State of Nevada for re-sale; use of funds to finance elimination of railroad grade crossings in Nevada

Dear Chic:

Thank you for your invitation to provide written testimony concerning the position of the Nevada Mining Association on legislation to authorize transfer of "checkerboard lands" to the State of Nevada. Your June 5th announcement of the hearing reached this office on June 9th over the weekend and we were unable to appear at the Tuesday June 12th hearing.

I have enclosed statements from two prominent mining law firms which have researched the substantial negative impacts that such a transfer would have on the mining industry. Also enclosed are copies of letters from some of the concerned mining companies.

The Nevada Mining Association's position is summarized by the article which I prepared for our NMA BULLETIN publication.

The NMA position was developed during the hearings by the state's Legislative Committee on Public Lands and during two board meetings of the Nevada Mining Association. It was taken with reluctance because the mining industry has generally been supportive of transfer of federally controlled lands to the State of Nevada (Sagebrush Rebellion).

In that instance, however, there was no intent to resell large blocks of potential mineral production lands. The State of Nevada was to have held the lands for multiple use purposes, excepting sales of small tracts best suited to urban development - such as land on the Las Vegas Strip and adjoining

communities.

The Sagebrush Rebellion Act also provided that language of the Federal Mining Law of 1872 would be adopted by the State of Nevada. This would have permitted mining interests to continue to acquire both underground and surface rights - identical to the protective rights now available under federal control of the lands.

Senator/Dan - please contact us if you need additional data or have some questions concerning our position. We are seriously alarmed because the "checkerboard lands" comprise some of the highest potential existing and future mineral resources in the State of Nevada. The mining industry -- and rural residents and local governments -- will inevitably be deprived of future mineral production upon which they must depend for their economic viability and the quality of life of the residents.

Cordially,

Bob

Robert E. Warren

REW:v

Encs.

cc: NMA Board of Directors & Sustaining Members
Department of Minerals
Earl M. Hill
John C. Miller
Nevada Staff of Senator Hecht
Senator Paul Laxalt
Nevada Staff of Senator Laxalt

Hill Cassas deLipkau and Erwin

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JAMES W. THOMPSON

February 3, 1984

HAND DELIVERY

Mr. Robert E. Warren
Executive Secretary
Nevada Mining Association
One East First Street
Reno, Nevada 89501

Re: Checkerboard Lands
Our File M-245-83

Dear Bob:

A revised version of the subject bill is enclosed for your review and for consideration by the Association. This letter is to discuss what seemed to us to be the most significant provisions of the revised version.

As you can see, we have entirely reorganized the numbering system used for the various sections and subsections of the bill in the hope that a better numbering system will contribute to its clarity. In the discussion below, I will use the new numbering system and comment on the distinctions between certain portions of the revised version of the bill and the same portions as they appeared in the form of bill which you sent to us during November.

At various places in the bill, we have deleted wording which is either ambiguous or inappropriate in a legal sense. For instance, in Subsection 1(c) we have deleted the previous reference to "unreserved and unappropriated" public lands, since at least a portion of the public lands in question have obviously been reserved or withdrawn by Congress for particular uses as well as appropriated under the mining and other public land laws. Int he rest of this letter, I will make reference to such linguistic changes only if the change was made for a substantive legal purpose.

In Subsection 1(d), in order to accommodate the Federal Land Policy and Management Act of 1976 ("FLPMA"), I have added a recitation that "the public interest would best be served by a conveyance thereof to the State of Nevada rather than retaining the same in federal ownership. . . ." In Subsection 1(f), we have added a recitation that grade crossings "constitute a clear and present danger to the safety of the public. . . ." We have retained Subsection 1(g), although I do not believe it is necessary to the bill and was probably inserted to accommodate someone's special interest in the legislation.

We have made several substantive changes in Section 2. In Subsection 2(a) (iii), we have excepted from the definition of "Disposable Lands" valid subsisting mining, millsite, and tunnelsite claims. In Subsection 2(d), we have defined "valid subsisting mining claim" to be a mining claim containing a discovery as defined by the prudent man rule of discovery and without regard to the marketability rule of discovery. In Subsections 2(d) and 2(e), we have provided definitions of "valid subsisting millsite claim" and "valid subsisting tunnelsite claim" which do not necessarily comport with existing applicable law on the subject but which might be palatable to the mining industry.

We have also made several substantive changes in Section 4. Subsection 4(a) specifies that any conveyances to the State of Nevada shall reserve all presently "locatable" minerals, together with all associated rights of ingress and egress thereto and subject to the surface owner damage provisions of the Stockraising Homestead Act of 1916, including existing regulations promulgated thereunder. This would, of course, have the effect of limiting surface owner damages to crops, existing surface improvements, and grazing values. Hopefully, these provisions would also obviate the need for any further mineral operating regulations by the Department of the Interior.

Under Subsection 4(b), conveyances to the State of Nevada would also reserve "all other minerals," including the leasable minerals, together with associated rights of ingress and egress. For rights of ingress and egress, we have adopted the language used in the Multiple Mineral Development Act of 1954.

Under Section 5 and some subsequent sections of the bill, we have provided for the State of Nevada to meet its obligations through appropriate legislation, rather than simply by "agreement" with the United States. We believe that such a far-reaching "agreement" would certainly require legislation.

There is a rather significant change included under Section 9. As you can see, members of the mining industry who

holds lands adjacent to "Disposable Lands" would have a preference right to to acquire any Disposable Lands which might be disposed of by the State of Nevada. It seems that this would be very desirable from the standpoint of the mining industry, but could create political problems with agricultural interests. This is a stronger "preference right" than was included in the original bill.

Several terms in the legislation would benefit from precise definitions, but we have not had time to accomplish that task. In closing, I offer the observation that I believe <u>any</u> legislation of this sort would be highly objectionable to the mining industry, and I doubt that the mining industry could support such legislation in the form transmitted herewith or otherwise.

Kind personal regards.

Sincerely,

HILL CASSAS de LIPKAU AND ERWIN

By Earl
Earl M. Hill

EMH:km
Enclosure

cc: Senator Norman Glaser
Richard Rayburn
Robert Erickson
Thomas A. Cooke, Esq.
Craig Haase, Esq.
Leslie Gray, Esq.
E. A. Hollingsworth, Esq.
Robert W. Marshall, Esq.
Roger W. Jeppson, Esq.
John C. Miller, Esq.
Richard Campbell, Esq.
Richard W. Harris, Esq.
James D. Santini, Esq.
Clark J. Guild, Jr., Esq.

3

PROPOSED BILL TO PROVIDE FOR THE ORDERLY DISPOSAL OF PUBLIC LANDS

IN THE "CHECKERBOARD" AREA OF NORTHERN NEVADA

A BILL to provide for the orderly disposal of certain lands in Northern Nevada.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED:

Section 1. The Congress finds that:

(a) During the 19th Century, grants of alternating sections of land along a line traversing northern Nevada were made by Congress to private entities in order to encourage the building of several railroads;

(b) As a result of these grants to private entities, the United States Bureau of Land Management now manages the sections of public land in a "checkerboard" strip of alternating public and private lands which is approximately 40 miles in width;

(c) These alternating sections of public land are difficult and uneconomical to manage as a portion of the public domain and are not suitable for management by a federal department or agency other than the United States Bureau of Land Management;

(d) It is no longer useful or necessary for the United States Bureau of Land Management to manage these alternating sections of public land, and the public interest would best be served by a conveyance thereof to the State of Nevada rather than retention of the same in federal ownership;

(e) The United States of America presently retains ownership of approximately 87% of the total acreage included within the State of Nevada, more than in any other state in the United States except for Aalska;

(f) Grade crossings of railroads in the State of Nevada are dangerous and disruptive to the development of commercial, agricultural, and urban interests and constitute a clear and present danger to the safety of the public;

(g) A project to eliminate such crossings by relocating railroads in Elko, Nevada has been heretofore funded by the Congress, and additional projects to eliminate such crossings should be funded for other urban areas of the state.

Section 2. For purposes of this Act:

(a) "Disposable Lands" shall mean all public lands which are owned by the United States of America and managed by the Secretary of the Interior through the Bureau of Land Management and which consist of sections in the alternating strip of public and private lands approximately 40 miles in width that is centered upon the former Central Pacific Railroad extending across northern Nevada, except such lands as:

(i) Are held in trust by the United States for the benefit of Indians or are included within Indian Reservations; or

(ii) Are located within national parks, monuments, forests, wildlife refuges, or similar reservations or withdrawals created by or under the authority of the Congress, or which have been acquired by Congressionally approved purchase; or

(iii) Are included within a valid subsisting mining, millsite, or tunnelsite claim entered and appropriated thereas under the authority of the General Mining Law of 1872, as amended and supplemented, 30 U.S.C. §§ 22-54 (1976).

(b) "Secretary" shall mean the Secretary of the Interior.

(c) "State" shall mean the State of Nevada.

(d) "Valid subsisting mining claim" shall mean any existing mining claim containing deposits of valuable minerals sufficient to justify a person of ordinary prudence in the further expenditure of his labor and means with a reasonable prospect of success in developing a valuable mine, without regard to whether or not such mineral deposits are marketable at a profit on the effective date of this Act or on any date after the effective date of this Act.

(e) "Valid subsisting millsite claim" shall mean any existing millsite claim which is used and occupied for mining or milling purposes on the effective date of this Act or within a period of 3 years thereafter;

(f) "Valid subsisting tunnelsite claim" shall mean any existing tunnelsite claim which was lawfully entered and appropriated as such and shall include all appurtenant rights to locate mining claims pursuant thereto.

Section 3. Within twelve months after the effective date of this Act, the Secretary shall submit to the Congress a full description of all Disposable Lands as defined above, including a description of all surface and subsurface improvements situate thereon, together with a full description of all public lands which do not constitute Disposable Lands as defined by this Act but which occur within the strip of alternating sections of public and private lands which contains the Disposable Lands.

Section 4. Within six months after the requirements of Section 5 of this Act have been met, the Secretary shall convey the Disposable Lands to the State. The patent confirming the conveyance:

(a) Shall reserve to the United States all minerals and mineral deposits which are now subject to entry and appropriation under the General Mining Law of 1872, as amended and supplemented, 30 U.S.C. §§ 22-54 (1976), together with all associated rights of ingress and egress thereto and therefrom which are provided for under the Stockraising Homestead Act of 1916, 43 U.S.C. § 299 (1976), such minerals and rights of ingress and egress and damages payable in connection with the exercise thereof to be as specified in said Stockraising Homestead Act and subject in all respects to existing regulations of the Secretary promulgated thereunder; and

(b) Reserve to the United States all other minerals which are now subject to the mining and mineral leasing laws of the United States including, without limitation, the Mineral Leasing Act of 1920, 30 U.S.C. § 181 et seq. (1976) and the Geothermal Steam Act of 1970, 30 U.S.C. § 1001 et seq., together with the right of the United States and its lessees, permittees, and licensees to enter upon the surface and to prospect for, drill for, mine, treat, store, transport, and remove such minerals and to use so much of the surface as may be necessary or desirable for such purposes.

Section 5. Before conveyance of the Disposable Lands to the State by the Secretary, the State shall pay to the United States as the purchase price therefor the sum of $2.50 per acre conveyed plus an amount equal to the fiar market value of any surface or subsurface improvements thereon, and shall adopt legislation satisfactory in form and content to the Secretary whereunder:

(a) All proceeds from the subsequent sale of the Disposable Lands by the State shall be held and used for the sole purpose of eliminating grade crossings of railroads in the State; and

(b) A board or agency of the State shall be established to manage the Disposable Lands; and

(c) The board or agency so established shall prepare, in cooperation with appropriate agencies and local governments throughout the State, plans or statements of policy concerning the use of the Disposable Lands; and

(d) Public comment upon the various matters addressed in a proposed plan or statement of policy shall be provided for throughout the course of its preparation, and any such plan or statement shall be submitted to the Secretary for his review prior to its adoption; and

(e) Procedures shall be established for preparing detailed statements on the potential environmental impact of any subsequent disposal by the State of the Disposable Lands, such procedures to conform substantially to the procedures which are applicable to major federal actions significantly affecting the quality of the environment under the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. (1976).

Section 6. The legislation adopted by the State under the provisions of Section 5 of this Act shall provide that the State shall not subsequently dispose of any of the Disposable Lands except by conveyance or other documents of transfer expressly made subject to all terms and provisions of this Act. In any such conveyance or other document of transfer:

(a) The State shall reserve such easements and other interests as may be necessary or desirable in order to insure public access across the lands transferred for the purpose of reaching adjoining lands; and

(b) The State shall reserve an easement for purposes of conservation which is suitable to protect or preserve the land transferred as open space and to protect or preserve any special characteristics of the land transferred in its natural state or any sites of particular historical or archeological interest thereon; and

(c) The State shall include such other terms and conditions as may be necessary or desirable in order to make the transfer consistent with the plans or statements of policy and environmental statements required by Section 5 of this Act.

Section 7. No single person, party, individual, company, corporation, or entity shall acquire from the State any interest in Disposable Lands which aggregate more than 2,560 acres.

Section 8. Any administrative or recording costs incurred with respect to any transfer of Disposable Lands by the State shall be borne by the purchaser thereof.

Section 9. Subject to the terms and provisions of this Act, the State may sell, exchange, or otherwise dispose of Disposable Lands under such procedures as it deems necessary or desirable, provided that the following parties shall be first notified of any planned sale, exchange, or other disposal and shall have the first and prior right to acquire the Disposable Lands in question in the order of preference indicated in this Section 9:

(a) The owners or operators of patented mining claims or of valid subsisting mining, millsite, or tunnelsite claims which adjoin the Disposable Lands in question; and

(b) The owners or operators of leases, permits, or licenses applicable to lands which adjoin the Disposable Lands in question when such leases, permits, or licenses were issued pursuant to the mining and mineral leasing laws of the United States referred to in Subsection 4(b) of this Act; and

(c) The owners of adjoining private lands which are otherwise used, occupied, or held for mining or milling purposes; and

(d) The owners of adjoining private lands which are used, occupied, or held for purposes other than mining or milling purposes; and

(e) Persons or entities who have historically used the Disposable Lands in question for grazing, agricultural, or other purposes under a colorable right or title permitting such use.

Section 10. All lands conveyed or otherwise transferred under the terms and provisions of this Act by either the Secretary or the State shall remain subject to any liens, encumbrances, or other rights existing on the effective date hereof which are not extinguished before the transfer including, without limitation, easements, servitudes, leases, and rights-of-way.

Section 11. The provisions of this Act, and any authorized action taken hereunder by the Secretary or by any other official or agency of the United States, shall not be subject to the terms and conditions of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. (1976).

Hill Cassas deLipkau and Erwin

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EARL M. HILL
FRANK CASSAS
ROBERT deLIPKAU
THOMAS P. ERWIN
ROBERT L. McCARTHY
JOHN O. SHENDEROFF
FRANK W. THOMPSON

November 21, 1983

NOV 2 4 1983

Mr. Robert E. Warren
Executive Secretary
Nevada Mining Association, Inc.
P.O. Box 2498
Reno, Nevada 89505-2498

RE: Privatization of Checkerboard Lands
Our File M-245-83

Dear Bob:

Thank you for providing me with a copy of your memorandum of November 14, 1983.

Please view this letter as a preliminary and stop-gap response to the requests voiced in your memorandum. My firm is engaging in some research toward providing for in depth responses and suggestions, which I will pass on to you at a later date.

I see numerous problems with the Checkerboard Land proposal.

Federal Land Policy

The Federal Land Policy and Management Act of 1976 requires that all federal lands be retained in federal ownership, unless the disposal of the lands would better serve public interest than retaining them. Although the draft bill accompanying your memorandum seeks to recite that public interest would best be served by the proposed transfer, I expect strong opposition to both the recital and the concept from environmentalists and conservationists nationwide, and from eastern Congressmen who consider the public domain in the west to be a cherished heritage of their constituents. Those interests typically view the railroad grants, whereby the sections now in private ownership were conveyed to the railroads, to have been an outrageous and lamentable "rip-off" against the general public and in favor of special interests. It is safe to predict that an effort to transfer the alternate checkerboard sections will,

in this day and age, be viewed by these interests as an even more outrageous "rip-off".

Special Interests

John Miller, in his letter of June 21, 1983 identifies some of the special interests which motivate and/or support this proposed legislation. Among these are engineering firms who would like contracts to design and construct overpasses, underpasses and similar structures to eliminate railroad grade crossing, and railroads, which would benefit from the absence of the grade crossings. (A general public interest which would be promoted by the absence of grade crossings, but which is not addressed in the proposed bill, would be public safety: Removal of the hazard to life and limb now inherent in existing grade crossings.)

Severed Estates

As John Miller points out, severance of the mineral estate from the surface estate inevitably creates conflict between owners of the two estates. The proposed measure would extend, and introduce mischievous new elements to, this conflict. Depending upon the ultimate language of the mineral reservation prescribed by the statute, this law could provide employment for several generations of lawyers and title examiners in Nevada.

BLM Land Management Problems

Admittedly, a checkerboard pattern of land ownership where the sections alternate between government and private ownership creates management problems. So far as I am aware, the Bureau of Land Management, which is charged with management of the government lands, does not view this problem as insurmountable. I doubt that the land managers in the Department of the Interior would testify before the Congressional committees that managing the checkerboard lands is "difficult and uneconomical" or that such lands are "not suitable for management" by the Government.

For the foregoing reasons, I strongly doubt that Congress will authorize the wholesale disposal of the checkerboard lands in Nevada or in other states having such checkerboard corridors in the foreseeable future.

Turning now to the proposed legislative bill which accompanied your memorandum, I will offer a few preliminary comments only. The research mentioned above will examine the proposed bill draft in detail, and will furnish me with the basis for recommending changes in the bill drafting approach.

Section 1 should include a recital that the public interest will better be served by a conveyance of the checkerboard lands to the State of Nevada than retaining them in federal ownership, to comply with FLPMA.

Paragraph 6 of Section 1 should emphasize hazard to life and limb, as well as the other dangers and inconveniences inherent in grade crossings.

Section 2 should define certain other critical terms used in the Act, e.g., "grade crossings", "improvements", "fair market value", "public access", "conservation", "person", "administrative costs", "modified and competitive bidding", "adjoining land owners", and "historical users".

The bill should be expanded to afford prospectors, permittees and lessees under the mineral leasing laws the same opportunities and protection as the present draft of the bill provides to claimants under the Mining Law of 1872. "Mineral leasing laws" in this context should include the geothermal mineral leasing laws. In my opinion, the reservation language set forth in paragraph 2 of Section 4 would cause geothermal resources to be reserved to the United States.

The mineral reservation language should be expanded to include the right to prospect for, mine, extract, and remove the reserved minerals, and to use, consume or destroy so much of the surface as is necessary for those purposes, subject to the obligation to pay to the surface owner damages inflicted by such activities, as measured by the difference in value of the land before the mining operations commenced and after they were completed. The statute should specify that persons qualified to locate mining claims under the Mining Law of 1872 or acquire mineral leasing rights under the Mineral Lands Leasing Act of 1920, or the Geothermal Resources Leasing laws may enter upon the lands for the purpose of exercising such rights with respect to reserved minerals. The statute should specify that it is self-executing, and that no regulations need be promulgated by the Secretary in order to implement its provisions.

As noted above, this letter is intended as a temporary stop-gap to inform you that I do have grave concerns about this concept, and that I am working upon more definitive comments and recommendations. I will supply you with the latter as promptly as

possible.

Kind personal regards.

Sincerely,

HILL CASSAS de LIPKAU AND ERWIN

BY Earl
Earl M. Hill

EMH:km

4

Hill Cassas deLipkau and Erwin

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JUN 19 1984

June 18, 1984

Mr. Robert E. Warren
Executive Secretary
Nevada Mining Association
One East First Street
Reno, Nevada 89501

Re: Privatization of Checkerboard Lands
Our File M-245-83

Dear Bob:

In our conversation on June 18, 1984, you indicated that my letter of November 21, 1983 appeared to be my latest contribution to your file on this subject.

I enclose herewith a photocopy of our file copy of my letter to you dated February 3, 1984 which, according to our records, was hand-delivered to your office on that date. The February 3, 1984 letter and its attachment represent the current thinking of my firm on this subject, including, with emphasis, that set forth in the closing paragraph.

Kind personal regards.

Sincerely,

HILL CASSAS de LIPKAU AND ERWIN

By Earl
Earl M. Hill

EMH:km
Enclosure

NOV 3 0 1983

PLACER U.S. INC. *

November 28, 1983

Robert E. Warren
Executive Secretary
Nevada Mining Association
P.O. Box 2498
Reno, Nevada 89505

Re: Comment Concerning Proposed Legislation

Dear Mr. Warren:

Placer U.S. Inc. has reviewed the proposed legislation to dispose of checkerboard public lands in northern Nevada and can find no sufficient reason to offer any support. As your enclosed letter written by Mr. John C. Miller points out, there are several mining properties within the area that would be affected. How these will be affected is not predictable at present but it is a foregone conclusion this legislative proposal will create several foreseen and unforeseen problems. Clouding the title and creating expensive bidding wars among interested parties are just a couple of the foreseen problems. And as in most legislation, unforeseen problems will only come to light in a flurry of expensive and time consuming lawsuits. Not until these lawsuits are settled will the actual laws defining this proposal be established.

This increased uncertainty to a mining company's property and mineral rights cannot be welcomed. Especially in light of what the legislation is proposing to solve. The railroad is once again getting to keep its cake and eat it too. They get to keep their land while having someone else solve and pay for the solution to their problem.

We can therefore not support such a self serving proposal as this and find the status quo more acceptable than the proposed legislation.

Sincerely yours,

David P. Parker
Land Supervisor

* Three mines in Nevada: Mr. Dermott, Conley, N.W. of Ely (under development)

DPP:la

A subsidiary of Placer Development Limited
ONE CALIFORNIA STREET • SUITE 2500 • SAN FRANCISCO • CALIFORNIA 94111-5472 • (415) 986-07
Telex 33-0486 • Telecopier (415) 397-0747

Coeur Explorations, Inc.

A Subsidiary of Coeur d'Alene Mines Corporation

SUITE 26, 255 GLENDALE AVENUE, SPARKS, NEVADA 89431
PHONE (702) 359-2252

NOV 2 8 1983

November 23, 1983

Board of Directors
Nevada Mining Association Inc.
P.O. Box 2498
Reno, NV 89505-2498

Gentlemen:

The proposed sale of public lands within the Railroad Checkerboard Land area would create many problems for mining companies. The proposed legislation as written would have a negative impact on the mining industry. Therefore, I am opposed to this bit of legislation.

The land sale, as I understand it, would give preferential treatment to adjoining land owners and grazing users. Surface rights would be sold and access to lands restricted. The mining developer would be at the whims of the new surface owner. The cost of developing minerals would skyrocket in trying to console greedy land owners.

The proposed bill makes no provisions for the status of claims already located. If the plan would go into effect in these areas, would present mining claims be excluded? Expensive mineral surveys or other time consuming operations would have to be undertaken to protect mining interests.

Another problem presented by this massive land sale would be the removal of surface rights and the ability to locate non-mineral claims on these lands; i.e., Mill Site claims. The processing of minerals would have to be located in another place, driving the cost of developing minerals higher and higher.

Although I am a supporter of the Sagebrush Rebellion, this bit of legislation would not benefit the state but only a handful of ranchers. A lot of Nevada's mineral wealth lies within the Checkerboard Lands. The Carlin District, Pinson District, and Rochester District would all be affected by this land deal. I, therefore, take a stand against the concept of selling public lands within the Railroad Checkerboard.

Sincerely,

Steven Berke

Steven Berke
Land Assistant

SB/ms

cc: Senator Paul Laxalt
Room 315
Russell Office Building
Washington, D.C. 20510

Senator Norman D. Glaser
P.O. Box 1
Halleck, NV 89824

The Standard Slag Company

GENERAL OFFICES - WESTERN DIVISION
POST OFFICE BOX 10477, RENO, NEVADA 89510

November 30, 1983

DEC - 1 1983

Senator Norman Glaser
P.O. Box 1
Halleck, NV 89824

Dear Senator Glaser:

I am writing this to express my opposition to the idea or concept of transferring to private ownership the so-called "checker board" sections along the Southern Pacific right-of-way.

In addition to the complex problems which could face the mining industry and others such as the ownership of mineral rights and access to other public lands, I believe this would be the wrong way to finance the elimination of rail crossings.

If the public wants the crossings changed with public funds, they should be willing to pay additional taxes to cover the cost, and should have the opportunity to express this desire by vote.

Selling a valuable public asset to finance such a project without approval of the public would be wrong. Senator, I urge you to do what you can to stop this legislation.

Thank you,

Yours very truly,

THE STANDARD SLAG COMPANY

John R. Harmon

John R. Harmon
Manager, Western Division

JRH:mjf

November 22, 1983

NOV 2 2 1983

Senator Norm Glaser
Chairman of the Legislative Committee
on Public Lands
P. O. Box #1
Halleck, Nevada 89824

Dear Senator Glaser:

This letter to you is in response to the November 14th memo written by Bob Warren of the Nevada Mining Association in regard to the checkerboard lands across Nevada.

IMCO Services is opposed to the legislation as written. Problems we see caused by this proposed legislation first and foremost would be access to those lands. We believe that the rights under the 1872 Mining Law should be maintained for those lands in order that the mining interests will have guaranteed access. The guaranteed access should be without monetary considerations until such time as there would be surface damage. The mining company certainly should be obligated for any surface damage that might be created.

Yours very truly,

Fred A. Beeman

FAB/glj

cc: David A. Brown
Bob Warren

IMCO Services
A Division of HALLIBURTON Company
1657
P.O. Box [redacted] • BATTLE MOUNTAIN, NEVADA 89820 • (702) 635-5143

Texasgulf Minerals Exploration Co.
255 Glendale Avenue, Suite 15 Sparks, Nevada 89431 702/331-6014

NOV 1 8 1983

November 16, 1983

Senator Norman D. Glaser
Chairman, Legislative Committee
on Public Lands
P.O. Box 1
Halleck, Nevada 89824

Dear Senator Glaser:

I have recently reviewed the proposed bill that would privatize the federal land within the railroad "checkerboard" of northern Nevada. I am firmly opposed to any effort to sell these lands and remove them from the public domain. There is enormous potential for mineralization that is yet untapped and will require years of exploration and exploration dollars to investigate. Acquiring the mineral rights through claim staking rather than optioning or leasing rights from private owners is the most efficient method of protecting an exploration and development investment. It allows more dollars to be spent on hard exploration rather than on lease or purchase payments, thereby benefiting the general public rather than one owner.

In addition, despite the grandfather clause in section 7 of the bill, lawsuits between "new" surface owners and "old" mineral owners will arise and will undoubtedly be costly to the mining company.

In general, the bill will be detrimental to the mining industry, detrimental to local economies dependent on the industry, and detrimental to the state coffers dependent on tax revenues from the mining industry.

Sincerely,

Paul D. Hartley
District Geologist
Western District, U.S.

PDH/dc
Xc: Mr. Robert E. Warren
NMA, Executive Secretary
P.O. Box 2498
Reno, Nevada 89505-2498

FREEPORT

Freeport Gold Company
Mountain City Star Route
Elko, Nevada 89801
Phone (702) 738-9221
A Subsidiary of Freeport-McMoRan Inc.

November 18, 1983

NOV 21 1983

Robert E. Warren
Executive Secretary
Nevada Mining Association
P. O. Box 2498
Reno, Nevada 89505-2498

Dear Bob:

I refer to your November 14, 1983, memo re the proposed legislation to dispose of Checkerboard Public Lands in northern Nevada. While I sympathize with and support the transfer of federal lands to either state or private control and I believe the principals involved have made an honest effort to overcome the concerns of the mineral industry in framing the proposed legislation, they simply have not succeeded. Any land to be sold subject to a third party's right to move a drilling on the property at anytime can not have much value. Alternatively those who would buy the Checkerboard lands subject to such an encumbrance would soon be devising ways to keep exploration off their lands. Thus the plan will fail either because it will not raise sufficient funds or, more likely, mining rights on the affected lands will be eventually extinguished.

Perhaps I am missing a point and my conclusions are in error. If so, please advise. Otherwise count me as opposed to the proposed legislation.

Sincerely,

Joe Farrell

Joseph C. Farrell
President

JCF:lg

PHILLIPS PETROLEUM COMPANY

8055 East Tufts Avenue Parkway, Phone: 303 850-3310
DENVER, COLORADO 80237

Minerals Group

FRED TERRY
General Manager
Alternate Energy Division

DEC 1 1 1983

December 8, 1983

Mr. Robert E. Warren
Executive Secretary
Nevada Mining Association
P.O. Box 2498
Reno, Nevada 89505-2498

Re: BLM Checkerboard Land Area, State of Nevada

Dear Mr. Warren:

Thank you for your correspondence dated November 14, 1983, informing us of the proposed legislation to dispose of "checkerboard" public lands surrounding Southern Pacific's right-of-way in northern Nevada.

We oppose this legislation because it could create new problems for the mining claim owners and lessees of federal mineral interests within the 40 mile corridor in question. The primary problems caused by the proposed act stem from the sale of surface rights to private owners which would result in difficulties for mineral owners in obtaining access to the subsurface minerals, increased development and operating costs, and the potential for legal nuisance suits brought by private surface owners.

Under the proposed legislation, the federal government would reserve the minerals. The sale by the State of Nevada of the surface to private owners other than to the railroad owning adjacent sections would not solve the "checkerboard" ownership problem. It would introduce many problems between surface owners and mineral developers who develop minerals under federal leases and mining claims. Further problems are introduced as to millsite claims which are basically surface use claims to process minerals. Under the proposed act, the mineral owners would be faced with uncertainty in being subjected to

bidding for the surface that they occupy or by paying the successful bidder for such land damages for surface disturbance in connection with mineral development. In reference to your question concerning Section 7 of the draft legislation, it is difficult to see how this section would solve all the problems discussed above.

We appreciate the opportunity to convey our comments to you on this proposed legislation.

Sincerely,

Fred Terry

FT:GMP:dlp

NERCO INC.
111 S.W. COLUMBIA, SUITE 800
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TELEPHONE 503-796-6600

DEC 1 1 1983

December 8, 1983

Mr. Bob Warren, Executive Secretary
Nevada Mining Association, Inc.
P.O. Box 2498
Reno, NV 89505-2498

RE: Proposed Legislation to Dispose of Federal Lands in Northern Nevada

Dear Bob:

In response to your query, NERCO Inc. supports the Nevada Mining Association in opposing the proposed legislation to dispose of federal (BLM) lands in northern Nevada. While this legislation would not affect any NERCO properties directly, the proposed bill has several problems.

The bill proposes that the federal government convey its surface interest in lands within the 40-mile wide corridor (containing what formerly was the Central Pacific Railway), to the State of Nevada, which would thereafter sell this surface to private parties and use the receipts to eliminate railroad grade crossings throughout the State. This would be a great deal for the railroads — they would receive public funds to relocate and upgrade track. It could also amount to a full-employment program for Elko Engineering, as the Miller memo mentions. However, notwithstanding Section 7 of the proposed bill, a great deal of trouble for mineral owners could result from the new checkerboard of private surface owners and the varied uses they might wish to make of their respective surfaces. Further, without going into detail, Section 6(c)(4) is poorly drafted and fails to state clearly whether (a), (b), and (c) thereunder are the only qualified purchasers, whether these are merely preferred purchasers, whether some are preferred over others (e.g., adjoining railroad owners), or whether sales will be based upon competitive or noncompetitive bidding. It is not clear why one or the other is to be preferred. In short, the bill's goals are unclear. Beyond recognizing that multiple surface owners are bad news for mineral interests, it's difficult to determine what the bill achieves, if anything.

I hope this is of assistance to you.

Very truly yours,

Linda Netherton-Johnson
Government Affairs Representative

LNJ/clf

Checkerboard Lands

LACANA

cc Warren

Lacana Mining Inc.
P. O. Box 11305
940 Matley Lane, Suite 15
Reno, Nevada 89510
(702) 329-5606

November 28, 1983

NOV 8 9 1983

Senator Norman Glaser
P.O. Box 1
Halleck, Nevada 89824

Subject: Proposed Legislation to Dispose of Checkerboard Public Lands in Northern Nevada

Dear Senator Glaser,

Please be advised that I, on behalf of Lacana Mining Inc., joint venture partners in the Pinson Mine and 100% owners of the Relief Canyon Gold Property, am opposed to any legislation that would remove the checkerboard public lands in northern Nevada from public usage.

Both the Pinson Mine and the Relief Canyon Gold Property fall within the checkerboard lands. Per my below listed objections, it is highly unlikely that either of these properties could have been brought into production if the checkerboard lands were removed from the public domain:

1. The public checkerboard lands are currently accessable to mining and milling. Sale of the surface rights could, and would, eliminate room for milling facilities, waste dumps, etc. Mining of a mineral deposit would destroy the surface value of the now private land resulting in lawsuits:

   a) to protect the surface by the new owner; and
   b) to protect the right to the mine by the mineral owner.

2. Access to mining claims could be denied the claim holder by the new surface owner, leading to more lawsuits.

3. The federal government is already removing vast areas of potentially valuable mineral lands for wilderness areas. This proposed legislation would, undoubtedly, effectively add to this removal of valuable mineral lands. As you are aware a number of Nevada's richest gold mining districts already lie within the checkerboard lands. Removal of more of this land will seriously hurt Nevada's mining industry, and hence, one of its important tax bases - not to mention employment opportunities.

4. By virtue of the checkerboard, Southern Pacific Land Company owns a huge swath of land through northern Nevada. While one would like to believe that the Southern Pacific Land Company would abide by the limits (2,560 acres) placed on individual purchases, it is not inconceivable that they would fill-in the alternate sections through proxy buying.

In conclusion, I must state that I consider this particular piece of legislation to be poorly conceived, and one which is not in the interest of the people of Nevada. I most sincerely trust that you will act on behalf of the responsible citizens of Nevada by opposing this legislation.

Yours very truly,

M. M. Easdon
Manager

MME:cs

cc: Mr. R. E. Warren, Nevada Mining Association, Inc.

HOY & MILLER, CHARTERED
ATTORNEYS AND COUNSELLORS AT LAW

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June 21, 1983

Carlin Gold Mining Company
P. O. Box 979
Carlin, NV 89822

Attention: Mr. Ralph Mattson,
Executive Vice-President and General Manager

Re: Privatization of the Railroad Checkerboard Land Area

Dear Ralph:

I had a chance to give some thought to the idea proposed by Mr. Mark Chilton of Elko, Nevada that the public lands within the Railroad Checkerboard across northern Nevada be sold to adjoining property owners and the proceeds therefrom used to build a railroad freeway across the northern part of the state. In proposing that, Mr. Chilton, who has had some experience with railroad construction, is hoping to upgrade rail service in the northern part of the state while, at the same time, eliminating grade crossings that have proved not only dangerous but expensive for the railroads to maintain. The idea, as presented by Mr. Chilton, is not without some merit and, of course, is not without some drawbacks.

Mr. Chilton's idea sprang forth from Chilton Engineering's involvement in the railroad relocation project here in Elko. I personally have favored the railroad relocation project through downtown Elko as when such is completed it will certainly make Elko a more pleasant town in which to live. Now that Chilton Engineering is finishing the Elko relocation project, they are looking on to other similar projects that might be undertaken. The idea of a railroad freeway across Nevada can be appealing to the railroads if funded elsewhere as it would allow them to rebuild much of their roadway across this state with new track and new ties. At the present time, they are unable to achieve efficiencies of speed in many parts of the state because of the inadequate rail system that forces them to slow down. With the support of the railroads, and possibly the support of the Bureau of Land Management which has difficulty in managing the checkerboard lands, there is a possibility that this land sale idea could receive favorable attention from Congress in the state legislature.

The idea basically is to sell the alternating public sections in the checkerboard to create money for a trust fund to be used in relocation and reconstructing the railroad tracks across northern Nevada. The land sales, as I understand it, would give preferential treatment to the grazing users and adjoining land owners. Supposedly, the mineral rights would be reserved to the United States and, hopefully, left open for location.

As I told you when you were in the office, I am not against the idea of more land in this state going into private ownership. As long as the land of this state is in the ownership of the federal government we here in Nevada are governed, in a large part, by people residing outside our state. We do not have reciprocity in governing private states, such as Texas or Delaware, while the people of Delaware and Texas have a say so in governing Nevada. This is somewhat basically unfair.

From the viewpoint of Elko Land and Livestock Company, the ability to purchase the alternating public sections within the ranch fence lines could be attractive. If Elko could purchase this area that is now used for grazing, they would go a long way toward removing themselves from the regulations and whims of the BLM in running their cattle operation.

With all of the above background, I would now like to give you my thoughts from a mining lawyer's point of view. As a mineral attorney who has had some experience in dealing with severed mineral rights, I would have to advise Newmont and Carlin Gold to oppose this particular plan. If carried out, the plan would create many many problems, some of which may be insurmountable, to Carlin's present claim position in the public land sections surrounding the Carlin Gold Mine area.

Presently, Carlin has, as do others, many claims staked covering all or portions of certain public land sections. If a plan to sell the surface of those sections was implemented, what would happen to the present status of the claims already located? Under the present 1872 Mining Law, when such claims were located you obtained the rights to the locatable minerals and surface as needed for mining and milling purposes. True, the federal government retained the right to manage the vegetative resources, such as cattle grazing, timber, etc., but, nevertheless, if you should take the claims to patent you would gain not only the minerals but the surface. If the paln would go into effect in those areas where they would attempt to sell the surface they would have to exclude present mining claims thereby forcing complicated, time consuming and expensive mineral surveys, or the equivalent thereof, in sections that are partially covered by present claims.

Perhaps a more drastic result would be that such attempted sale would cause the BLM to make a mineral evaluation on each of the claims located in sections to be sold. We all know that only a small percentage of claims owned by mining companies have known discoveries on them. Other claims may have known discoveries in the future but full exploration has yet to be performed. A common practice of the BLM in forming national parks, national monuments or wildlife withdrawals is to get rid of known mining claims. They do this by undergoing a mineral examination, and if a claim cannot pass a rather rigid examination for mineral content the claim is voided and then the land withdrawn, not allowing further location. I am afraid that any type of sales procedure would force the BLM to undertake massive evaluation of unpatented mining claims.

Another problem presented by this massive land sale to adjoining ranchers, the Southern Pacific Land Company, and others, would be to remove surface area from location. Even if the lands in question had the minerals reserved to the United States and open for location, it would then be impossible to stake a millsite claim to process the minerals from a particular lode claim. A millsite claim, as you know, is in essence only a surface use claim and if the surface is privately owned it can't be located.

Still another problem with selling the public sections to private interests with the minerals reserved to the United States would be the problem between owners in the severed mineral situation. I don't care how the language of any piece of legislation is drafted--there is ultimately going to be friction between the surface owner and the mineral developer. It is going to end up costing the mineral developer money in placating the surface owner. This particular situation is dramatized in the recent decision of the Nevada Supreme Court in the Christensen v. Chromalloy case.

Yet another problem may be with access to known mineral areas or mining claims. One good feature of the Railroad Checkerboard is that it has allowed attorneys for those seeking access to take just about any position that they deem favorable to their client.

As I discussed with you, I was a supporter of the Nevada Sagebrush Rebellion movement. Such act laid claim to all the federal lands for the benefit of the State. At the time the act was passed by the Nevada Legislature, it in essence grandfathered in the 1872 Mining Law and adopted it as though it were a State law for the purposes of mineral location. Such was an attempt by Nevada to obtain full control over the lands within the State boundaries. The catch, of course, is that by getting it into State

ownership monies are not raised that would finance the railroad freeway that Mr. Chilton desires. From a mining point of view, I cannot get over the hurdles that I discussed above, and thus I would have to recommend that Carlin Gold and Newmont take a stance against the concept of selling the public lands within the Railroad Checkerboard.

A fair share of Nevada's mineral wealth lies within the Railroad Checkerboard. The Carlin Gold holdings at the original mine and the new Gold Quarry area are perfect examples. Others exist. The barite empire near Battle Mountain is almost entirely within the Railroad Checkerboard as is the big Duval property. The Pinson Mine north of Golconda is within the Railroad Checkerboard area. Following the checkerboard toward Reno, it will be seen that the tungsten property near Imlay, Nevada is within the checkerboard as are many of the properties in the Lovelock area. I think a little research on this matter would point out that considerable study should go into this issue and that very exact monitoring of any proposed legislation be made.

Sincerely yours,

JOHN C. MILLER

JCM:slt
cc: Carlin Gold Mining Company
Attention: Mr. J. D. McBeth

/ Newmont Services, Ltd.
Attention: John P. Fitz-Gibbon, Esq.

Checkerboard land transfer draws opposition of miners

Mining industry representatives are generally opposed to a legislative proposal to transfer at low cost certain "checkerboard" federal lands to the State of Nevada. The state, in turn, would re-sell the lands to private parties to raise monies to abolish dangerous Southern Pacific railraod crossings within Nevada.

State Senator Norman Glaser, chairman of the state's Legislative Committee on Public Lands, has asked the mining industry for comments on the legislation, being drafted by his committee at the request of the Nevada State Legislature.

Responding to Senator Glaser's request for comments, numerous mining firms and mining law attorneys have pointed up anticipated problems for the mining industry that could result from the legislation, if enacted by Congress.

The land under consideration for sale to the state is the alternate sections of public land within the 40 mile wide sections of Southern Pacific rail right-of-way across all of northern Nevada.

Some of the Nevada's premier mines and high potential mineral lands lie within the 40 mile-wide corridor. These include the Pinson, the famed Carlin Gold Mine and its most recent new discoveries, the soon-to-be-opened Relief and Dee gold mines, important barite mines and reserves and high potential geothermal resource areas.

Only the surface estate would be conveyed to the State of Nevada. All minerals would be severed and ownership retained by the Federal Government.

At the request of Senator Glaser, the Nevada Mining Association sent a memo to all sustaining members, mining law attorneys, and selected exploration firms to explain the proposed legislation and to seek comment upon behalf of the public lands committee.

The committee, in an attempt to guarantee continued access and to protect existing rights of the mining industry, has drafted the following language:

"Section 7. The property conveyed must remain subject to any encumbrances existing on the effective date of this act which are not extinguished before conveyance, including easements, servitudes, leases, rights of way and rights of mining claimants."

Despite this language in the draft - which will be forwarded to the Nevada Congressional Delegation for introduction in Congress - mining firms, attorneys, and individuals have advised Senator Glaser the language of section 7 does not adequately protect existing and future rights of miners to explore and mine upon the lands, once they are sold to private parties. Typical comments:

-- Surface rights could be sold to private parties, but mineral rights would be severed and retained by the Federal Government. Therefore, should a mine owner attempt to go to patent with his claim block, he would not gain access to essential surface rights for processing facilities, mine dumps and tailing ponds, and other needed surface facilities.

Should the Federal Government attempt to exclude existing claims and other potentially valuable mineral lands from sale

Cont. on page 7

BROADBENT GETS POST

Nevadan Robert N. Broadbent, 57, has been promoted to the post of Assistant Secretary for Land and Water Resources in a reorganization move by the U.S. Department of Interior. He has responsibility for the U.S. Geological Survey, Bureau of Mines (the latter headed by Nevadan Robert Horton). Broadbent, a Republican, is a former Clark County Commissioner. For many years he operated a pharmacy in Boulder City, Nevada. Broadbent formerly served as Commissioner of the Bureau of Reclamation. -0-

Cont. from page 6

to the state and eventual re-sale to private parties, very costly and time consuming minerals evaluations must be undertaken by the government. This could include drilling to definitely establish the mineral or nonmineral character of the lands. Or the government could refuse to finance the cost of evaluations and, instead, send government geologists to the property to determine if a "valid discovery" has been made by the mining claim owner. Federal courts have ruled a discovery is valid only if the claim can be put into production at a profit. Most claims are still under development and not capable of immediate production. Thus, most mining claims could be ruled invalid.

Fear split ownership of surface-minerals will invite law suits

-- If surface rights are held by another party, costly and time consuming legal battles between owners of surface and mineral rights will inevitably occur. Not until these law suits are settled will the actual laws defining mineral interest rights be finally established. This could take many years.

-- **The subcommittee's proposed language** does not provide prospectors, permittees and lessees the protection they now enjoy under the mineral leasing law. Present holders of leases for geothermal exploration and production may find the geothermal resource would be reserved to the United States.

-- The legislation could restrict or forfeit future production from some of the most highly mineralized areas within the State of Nevada.

Could reduce long-term production of minerals

-- **Coupled with proposed withdrawals** of huge areas of public lands within Nevada for exclusive wilderness use, the loss of access to potential mineral resources can sharply reduce continued long-term production of minerals in Nevada.

-- A valuable public asset (mineral lands) should not be encumbered at the singular expense of the mining industry to finance a project of interest to all citizens of Nevada. Instead, the elimination of railroad crossings should, if supported by the public, be financed by taxes on the general public.

-0-

Conoco sells Getchell gold claims to First Mississippi

Conoco Inc. has sold the Getchell gold property near Winnemucca, Nevada, to First Mississippi Corporation for about $5 million.

Conoco had announced in mid-1982, after it was purchased by DuPont Company, that it would be selling all of its minerals properties and getting out of the minerals business. Conoco had purchased the mine in 1981 and could have had it operating this year.

Evaluating economics of reserves and mine

First Mississippi said it will give top priority to developing Getchell.

"A work program to evaluate reserves and determine mine and mill economics is under way," a First Mississippi spokesman said. "Reserves appear to exceed 750,000 ounces" of gold, the company reported.

About 14,000 acres of fee land and 5,000 acres of unpatented claims were involved in the purchase.

The mine operated from the 1930s until 1967. Conoco had completed feasibility studies on reopening the mining operation by first reprocessing the waste dumps and tailings.

SIERRA CLUB

Toiyabe Chapter – Nevada and Eastern California

June 17, 1984

Tony Bevinetto
Professional Staff Member
Subcommittee on Public Lands & Reserved Water
United States Senate
Washington, DC 20510

Dear Mr. Bevinetto,

Senator Chic Hecht advised us to present written testimony to you in reference to the Subcommittee hearing held on June 12, 1984 to consider Federal land management problems on northern Nevada's "checkerboard" lands.

The Toiyabe Chapter of the Sierra Club has nearly 2,000 members in Nevada and eastern California. We are vitally concerned about public land decision making and management in Nevada. Several of our members participated in over twenty hours of State meetings designed to work out the many procedural and substantive problems on the proposed checkerboard land legislation.

Unfortunately, our state subcommittee was unable to reach a consensus on a legislative solution. The Toiyabe Chapter subsequently adopted the enclosed resolution on checkerboard lands in Nevada.

To summarize our concerns, we doubt that the public benefits of eliminating railroad grade crossings in Nevada outweigh the loss of over 2,500,000 acres of national resource lands. We are concerned that too much is being left up to a "board" which is not described in the proposed llegislation, including the decision on whether fair market value is required as a minimum purchase price. The exemption of such a huge land transfer from the National Environmental Policy Act is not reasonable. Too many practical problems remain unaddressed by the proposed legislation, including the source of funds for the state purchase, sale and management of the transferred lands and for the operation of new state parks and wildlife refuges.

In short, while we agree that checkerboard lands present management difficulties to the Bureau of Land Management, the current legislative proposal does not appear to be a realistic way to solve those problems. It was never clear in our subcommittee deliberations whether any buyers would want to purchase 2,500,000 acres of checkerboard lands, nor why a program of accelerated land exchange wouldn't be simpler and cheaper. In addition, the precedent such legislation would have on other states with checkerboard lands was not fully considered, nor the impact on local and county governments which would have to assume

the financial burden of providing services to new, but isolated residents and covering costs currently carried by the federal government in fire protection, road maintenance, etc. particularly in light of their loss of federal in lieu of taxes revenues.

We would be glad to go into more detail on the deficiencies of the proposed legislative solution of the checkerboard land management problems, as well as to offer our suggestions on improving the proposal, at the Subcommittee's pleasure.

Please enter our comments into the hearing record.

Sincerely,

Rose Strickland

Rose Strickland, Chair
Public Lands Committee

cc: Senator Hecht
Marjorie Sill, Chapter Chair
Glenn Miller, Conservation Committee Chair
CONSENSUS

Enclosure

SIERRA CLUB
Toiyabe Chapter – Nevada and Eastern California

TOIYABE CHAPTER OF THE SIERRA CLUB
Lone Pine, CA
1/84

RESOLUTION ON CHECKERBOARD LAND LEGISLATION

WHEREAS, the state of Nevada is proposing national legislation to authorize the purchase from the federal government of approximately 2,500,000 acres of checkerboard land along the I-80/railroad corridor;

WHEREAS, Nevada claims the checkerboard lands are difficult and uneconomical to manage, and no longer useful or necessary for BLM to hold these public lands,

WHEREAS, Nevada proposes to sell or dispose of the checkerboard lands and use the proceeds to eliminate dangerous railroad grade crossings,

WHEREAS, Nevada will not require fair market value as a condition of sale nor will lands be available to any willing buyer;

WHEREAS, Nevada will establish a "board" to oversee the management of the checkerboard lands, but has not indicated whether its membership will represent all multiple users;

WHEREAS, Nevada has not addressed many practical problems involved in the legislative proposal, including the source of revenue to purchase over 2,500,000 acres at $2.50 per acre and to pay for appraisals, surveys, and sale costs, the source of revenue to manage the checkerboard lands, such as firefighting expenses, operations and management expenses for additional state parks and wildlife refuges, etc.;

WHEREAS, Nevada contends that the requirements of the NEPA do not apply to the conveyance by the Secretary to the State.

THEREFORE BE IT RESOLVED, that the Toiyabe Chapter of the Sierra Club is opposed to the proposed checkerboard legislation in its present form for the following reasons:

1. The benefits of raising funds to eliminate grade crossings in Nevada do not appear to outweigh the loss of over 2,500,000 acres of national resource lands.
2. Too much is left up to a "board" which is not described, including the decision of requiring or not requiring fair market value as a minimum purchase price.

3. There are too many practical problems left unaddressed by the proposed legislation, including the source of funds for purchase, sale, and management and operations of new state parks and wildlife refuges.
4. The conveyance of over 2,500,000 acres to Nevada is obviously a major federal action whose impacts must be studied in an EIS.

BE IT FURTHER RESOLVED, that the Toiyabe Chapter of the Sierra Club urges the draft legislation be modified to address stated concerns:

1. Any funds generated from the sale of checkerboard lands as well as the lands lands retained in state ownership should be used for other public purposes, such as the acquisition or exchange of sensitive lands in other parts of the state, as well as the elimination of any dangerous at grade railroad crossings.
2. The membership, method of selection, and responsibilities of the "board" should be specified in the legislation.
3. More time and effort by all interests are needed now to resolve remaining problems which are preventing a general consensus on the proposed legislation, not after the bill is introduced.
4. All requirements of NEPA shall be met.